

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, 6 December 2016
9 (The trial hearing starts in open session at 9.51 a.m.)
10 THE COURT USHER: [9:52:03] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:52:27] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:52:31] Thank you, Mr President. The situation in the
16 Democratic Republic of the Congo, in the case The Prosecutor versus Bosco Ntaganda,
17 case reference ICC-01/04-02/06. We are in open session.
18 PRESIDING JUDGE FREMR: [9:52:46] Thank you, court officer. Appearances, if
19 changed compared to yesterday.
20 MR VAN DER WERF: [9:52:51] There are no changes, your Honour.
21 PRESIDING JUDGE FREMR: [9:52:53] Thank you, Mr van der Werf. Defence.
22 MR BOURGON: [9:52:56] No change for the Defence side, Mr President.
23 PRESIDING JUDGE FREMR: [9:52:59] Thank you, Mr Bourgon. And Legal
24 Representatives of Victims, please.
25 MR ABDOU: [9:53:05] Good morning, Mr President. For the former child soldiers,

1 Ms Sarah Pellet is not present today.

2 MR SUPRUN: [9:53:17] (Interpretation) Good morning, your Honour, your Honours.

3 No change for the victims of the attacks.

4 PRESIDING JUDGE FREMR: [9:53:21] Thank you, Mr Abdou. Thank you,

5 Mr Suprun.

6 We will continue with cross-examination of our witness, and as to the timing, I would

7 like to inform you that the Chamber intends to finish this testimony before the lunch

8 break, which means that we are even ready to extend a bit the second session in order

9 to make it.

10 Now, Mr Bourgon, you have the floor. I guess you will need to continue in private

11 session. Am I right?

12 MR BOURGON: [9:53:50] Indeed, Mr President.

13 PRESIDING JUDGE FREMR: [9:53:51] All right. So, court officer, let's move into

14 private session.

15 (Private session at 9.53 a.m.)

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5 (Open session at 11.09 a.m.)

6 THE COURT OFFICER: [11:09:53] We are in open session, Mr President.

7 PRESIDING JUDGE FREMR: [11:09:57] Thank you, court officer. May I be
8 provided with the update on time, on timing?

9 THE COURT OFFICER: [11:10:05] Yes, Mr President. The Defence has used so far
10 5 hours and 28 minutes.

11 PRESIDING JUDGE FREMR: [11:10:12] Twenty-eight, which means that you still
12 have roughly, well, 1 hour 31 minutes.

13 Mr van der Werf, do you at this moment envisage any need for redirect?

14 MR VAN DER WERF: [11:10:26] At this point a very short topic, yes.

15 PRESIDING JUDGE FREMR: [11:10:29] Which means how much time, do you
16 think?

17 MR VAN DER WERF: Five minutes.

18 PRESIDING JUDGE FREMR: [11:10:32] All right. But anyway, as I indicated, the
19 Chamber would like to complete this testimony before the lunch break, so in a case of
20 need, we will have to take a bit longer session in two, two hours maximum. So now
21 we break and we will reconvene 11.40.

22 THE COURT USHER: [11:10:59] All rise.

23 (Recess taken at 11.11 a.m.)

24 (Upon resuming in open session at 11.41 a.m.)

25 THE COURT USHER: [11:41:21] All rise.

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- 1 Please be seated.
- 2 PRESIDING JUDGE FREMR: [11:41:42] Defence will continue in
- 3 cross-examination of our witness. And for that purpose we have to move into
- 4 private session.
- 5 Court officer, please.
- 6 (Private session at 11.41 a.m.)
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12 (Open session at 1.20 p.m.)

13 THE COURT OFFICER: [13:20:48] We are in open session, Mr President.

14 PRESIDING JUDGE FREMR: [13:20:51] Thank you, court officer.

15 Mr Witness, it concludes your testimony. So on behalf of the whole Chamber

16 I would like to thank you that you underwent such a long journey and that you

17 patiently responded all those questions that were put to you. I firmly believe that

18 your testimony can help us in our deliberations and can help us in our effort to find

19 the truth. So we thank you and we wish you safe journey home.

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

21 (The witness is excused)

22 PRESIDING JUDGE FREMR: [13:21:55] And as concerns our further programme,

23 so we will now break and we will continue after lunch break with the next witness,

24 which is, if I'm not wrong, Witness P-121. And we would like to at least partially

25 compensate the delay we got in the morning, so -- and moreover, we will have to

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1 finish today a bit earlier because there is a plenary meeting for the Judges, so we will
2 finish at 4.25. So in order to cover all those troubles we would like to shorten lunch
3 break from 90 minutes to 75 minutes, which means that we would like to start the
4 afternoon session - and now give me a session, I have to count it - so 2.40. I hope
5 that my colleague is correct. So we will start at 2.40 and will finish -- sorry? 2.15?
6 So now I have second opinion. Ten, 20, 30 -- I think my colleague is right. Yes. So
7 1 hour and 15 minutes, so 2.40 and we will finish 4.25.

8 Now we break.

9 THE COURT USHER: [13:23:24] All rise.

10 (Recess taken at 1.23 p.m.)

11 (Upon resuming in open session at 2.43 p.m.)

12 THE COURT USHER: [14:43:22] All rise.

13 Please be seated.

14 PRESIDING JUDGE FREMR: [14:43:51] Good afternoon, everybody.

15 Since I see numerous changes in appearances I would like to ask you for the update,
16 starting with Prosecution, please.

17 MS RABANIT: [14:44:02] Good afternoon, Mr President, your Honours. For
18 the Prosecution today appear Selam Yirgou, case manager; Nicole Samson, senior trial
19 lawyer; Kristy Sim, assistant trial lawyer; Julieta Solano, trial lawyer; and
20 Marion Rabanit, associate trial lawyer.

21 PRESIDING JUDGE FREMR: [14:44:27] Thank you, Ms Rabanit.

22 Defence now.

23 MR GOSNELL: [14:44:30] Good afternoon, Mr President. Christopher Gosnell for
24 Mr Ntaganda today, joined by Erik Cookson-Montin and Maria-Kim Vasconi.

25 Thank you.

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1 PRESIDING JUDGE FREMR: [14:44:43] Thank you, Mr Gosnell.

2 And Legal Representative for Victims.

3 MR ABDOU: [14:44:50] Good afternoon, Mr President. Good afternoon, your
4 Honours. No changes for the former child soldiers.

5 MR SUPRUN: [14:44:58] (Interpretation) For the victims of the attacks, no changes
6 either, Mr President. Thank you very much.

7 PRESIDING JUDGE FREMR: [14:45:06] Thank you, Mr Abdou. Thank you,
8 Mr Suprun.

9 So before we move to testimony of our next witness I would like to highlight that in
10 terms of timing the Chamber has already indicated that the examination-in-chief of
11 this witness should be completed in three hours and the Defence will have equal time.
12 Further, the Chamber has taken note of the Defence notice of objections, both to the
13 use and admission of certain documents, and as usually, it will address any such
14 objections, if and when they arise.

15 The Chamber has also taken note of the VWU's vulnerability assessment and confirms
16 that reading assistance is available on standby should this be necessary for the
17 reading of long portions of text.

18 And now we can turn to the scheduled testimony.

19 Mr Witness, good afternoon. Can you hear me?

20 WITNESS: DRC-OTP-P-0121

21 (The witness speaks French)

22 THE WITNESS: [14:46:18] (Interpretation) Yes, I can hear you, but the sound is not
23 clear enough. Could I have more volume, please?

24 PRESIDING JUDGE FREMR: [14:46:34] I will send our court usher and I am sure
25 that he will fix the problem.

1 Now, Mr Witness, is it okay now?

2 THE WITNESS: [14:46:54] (Interpretation) Yes, super, but we have to turn it down
3 a little bit now.

4 Okay.

5 PRESIDING JUDGE FREMR: [14:47:07] So another test, what about now? One, two,
6 three, can you hear me well?

7 THE WITNESS: [14:47:11] (Interpretation) Yes. Now I can hear you clearly.

8 But there's another suggestion, I feel somewhat uncomfortable in this chair. I am
9 a little bit short and maybe we need to take the chair down somewhat.

10 PRESIDING JUDGE FREMR: [14:47:29] We will also solve it. Give us a second.

11 Are you fine, Mr Witness, at the moment?

12 THE INTERPRETER: [14:48:33] The witness's microphone.

13 PRESIDING JUDGE FREMR: [14:48:36] Could you repeat your last sentence,
14 because the mike was not switched on.

15 THE WITNESS: [14:48:45] (Interpretation) Yes, what I said is that I think we have
16 90 percent success.

17 PRESIDING JUDGE FREMR: [14:48:55] Very well. And I appreciate that you
18 expressed yourself, because we would like you to feel comfortable when giving your
19 testimony.

20 Mr Witness, so it is my role to instruct you about our proceedings.

21 First of all, I would like to highlight that you are called to testify in the case against

22 Mr Bosco Ntaganda and you will be soon asked questions both by the Judges and
23 lawyers in this courtroom. In this connection, please listen carefully to those

24 questions. If you do not understand, feel free to ask for the question to be repeated.

25 We want you to tell the truth and tell us what you saw, heard and sensed yourself.

1 If you did not see or hear it yourself but you found out some other way, then you
2 should explain how.

3 Please testify just on that which you remember. Don't guess. Don't make things up.
4 There is nothing wrong in saying "I don't know" or "I don't remember."

5 Do you understand all this, Mr Witness?

6 THE WITNESS: [14:50:23] (Interpretation) Yes. I have fully understood what you
7 have said. You have invited me to feel free.

8 PRESIDING JUDGE FREMR: [14:50:37] All right. Then, Mr Witness, protective
9 measures are put in place to ensure that your identity is not revealed to the public.
10 This means that the public cannot see your face and that your voice is being disguised
11 so that the public cannot recognize it. We will refer to you as "Mr Witness" only and
12 ensure that your name and any other information that risks revealing who you are is
13 not broadcast to the public. Therefore, whenever you need to describe anything that
14 might reveal your identity, we will do so in private session so that no one outside the
15 courtroom can hear your answer.

16 Do you understand, Mr Witness?

17 THE WITNESS: [14:51:36] (Interpretation) Mr President, yes, I have fully
18 understood that.

19 PRESIDING JUDGE FREMR: [14:51:42] Very well. Now, Mr Witness, you should
20 find in front of you piece of paper with the text of solemn undertaking. Do you see
21 it?

22 THE WITNESS: [14:52:03] (Interpretation) Yes, I can see solemn undertaking.
23 Thank you.

24 PRESIDING JUDGE FREMR: [14:52:09] So please now make your solemn
25 undertaking to tell the truth by reading out the declaration on the piece of paper you

1 have in your hands.

2 THE WITNESS: [14:52:23] (Interpretation) Thank you, Mr President. Solemn
3 undertaking, I read: I solemnly declare that I will speak the truth, the whole truth
4 and nothing but the truth.

5 PRESIDING JUDGE FREMR: [14:52:47] Thank you, Mr Witness.

6 So it means you are now under oath and you need to be aware that it is an offence
7 within the jurisdiction of this court to give false testimony. Do you understand that?

8 THE WITNESS: [14:53:10] (Interpretation) Mr President, I am very aware that false
9 testimony is a crime. And I know that refusal to testify is also an offence.

10 PRESIDING JUDGE FREMR: [14:53:25] Very good, Mr Witness. And finally, a few
11 practical matters you should have in mind when giving your testimony.

12 It's important to speak into the microphone, to speak clearly and to speak at a slow
13 pace to allow the interpreters to translate everything. You should only start
14 speaking when the person asking you the question has finished. When a question is
15 asked, please do not respond immediately, but, rather, count in your head at least to
16 three and only then give your answer because this pause of at least three seconds is
17 essential for us to properly translate and record what you are saying.

18 And if you have any questions during your testimony, do not hesitate to let us know
19 by raising your hand. We will then give you the opportunity to speak. Have you
20 understood all that, Mr Witness?

21 THE WITNESS: [14:54:33] (Interpretation) Yes, I have understood it very well,
22 Mr President.

23 THE INTERPRETER: Mr President, could the witness be asked to repeat the last
24 party of his answer.

25 PRESIDING JUDGE FREMR: [14:54:47] Mr Witness, could you kindly repeat the last

1 part of your answer because it hasn't been captured by the interpreters.

2 THE WITNESS: [14:55:00] (Interpretation) What I said is that I fully understood
3 your explanation and the instructions pertaining to the conduct to be adopted. You
4 suggested, among other things, that the line -- well, I don't know if your line is clear.
5 The line doesn't seem to be clear.

6 PRESIDING JUDGE FREMR: [14:55:24] I hope it will be okay. But what is the most
7 important thing, always please wait until the person who is talking to you finish, then
8 make a break, otherwise it could lead to overlappings and then we will not hear each
9 other, so please have it in mind.

10 Now I am giving the floor to Prosecution, I guess to Ms Rabanit, who will examine
11 you.

12 Ms Rabanit, you have the floor.

13 MS RABANIT: [14:55:59] Thank you, Mr President.

14 QUESTIONED BY MS RABANIT: (Interpretation)

15 Q. [14:56:05] Good afternoon, Mr Witness.

16 A. [14:56:08] Good afternoon, madam.

17 Q. [14:56:10] My name is Marion Rabanit and this afternoon I will be putting
18 questions to you on behalf of the OTP.

19 A. [14:56:18] Thank you.

20 Q. [14:56:24] Well, listen attentively to my questions and please answer only the
21 questions that I put to you.

22 I will start by putting questions to you about your personal background and for that I
23 would like to request that we move into private session.

24 MS RABANIT: [14:56:50] Mr President, I request that we go into private session for
25 this first part.

- 1 PRESIDING JUDGE FREMR: [14:56:54] Certainly.
- 2 Court officer, let's move into private session.
- 3 (Private session at 2.56 p.m.)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
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4 (Open session at 4.21 p.m.)

5 THE COURT OFFICER: [16:21:31] We are in open session, Mr President.

6 PRESIDING JUDGE FREMR: [16:21:37] Thank you, court officer.

7 Mr Witness, we will have to break now, but we will continue tomorrow, 9.30. And it
8 is my duty to remind you that in the meantime till tomorrow you must not discuss
9 your testimony with anybody else. Do you understand, Mr Witness?

10 THE WITNESS: [16:22:05] (Interpretation) That's about tomorrow?

11 PRESIDING JUDGE FREMR: [16:22:11] I just said that you must not discuss what
12 you said today in the courtroom with anybody else till tomorrow. Is it clear now?

13 THE WITNESS: [16:22:25] (Interpretation) Yes, it is very clear. But I don't have any
14 opportunity to talk to anyone anyway, I am alone and I am entirely alone.

15 PRESIDING JUDGE FREMR: [16:22:39] All right. That's even better from that
16 angle or view. So I thank you, I wish you a good evening and we see you tomorrow,
17 9.30.

18 Court usher, please assist Mr Witness to leave the courtroom.

19 And just I would like to ask for update on timing.

20 THE COURT OFFICER: [16:22:58] Yes, Mr President, the Prosecution has used so far
21 one hour 25 minutes.

22 PRESIDING JUDGE FREMR: [16:23:03] So you still have one hour 35 minutes,
23 Ms Rabanit, for tomorrow.

24 So we break now and we reconvene tomorrow, 9.30.

25 THE COURT OFFICER: [16:23:18] All rise.

Trial Hearing

(Open Session)

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1 (The hearing ends in open session at 4.23 p.m.)

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