

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor versus 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 2
8 Wednesday, 18 January 2017
9 (The hearing starts in open session at 9.33 a.m.)
10 THE COURT USHER: [9:33:08] 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: [9:33:43] Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, The Prosecutor versus Bosco
17 Ntaganda, case reference ICC-01/04-02/06.
18 We are in open session.
19 PRESIDING JUDGE FREMR: [9:33:57] Thank you, court officer.
20 Now, appearances, please. Prosecution first.
21 (Technical difficulty)
22 MS RABANIT: [9:34:05] Good morning, Mr President. Appearing today for the
23 Prosecution are --
24 PRESIDING JUDGE FREMR: [9:34:20] Sorry, may I interrupt you because I face
25 some technical problems. While I can perfectly hear what is going on in the place of

1 our video room, I can hardly listen to what Ms Rabanit is saying.
2 The English channel ...
3 THE INTERPRETER: [9:34:39] Message from the interpreters: We also find the
4 sound rather poor this morning.
5 PRESIDING JUDGE FREMR: [9:34:52] Ms Rabanit, please proceed.
6 MS RABANIT: [9:35:02] Appearing today for the Prosecution are Selam Yirgou, case
7 manager --
8 (Technical difficulty)
9 PRESIDING JUDGE FREMR: [9:35:04] I'm sorry, I can't hear. I'm perfectly here to --
10 THE INTERPRETER: [9:35:07] The interpreters are unable to hear.
11 (Pause in proceedings)
12 PRESIDING JUDGE FREMR: [9:35:44] Ms Rabanit, third attempt, please.
13 MS RABANIT: [9:35:54] Good morning, Mr President. Good morning, everybody.
14 Appearing today for the Prosecution are Selam Yirgou, case manager; Kristy Sim,
15 assistant trial lawyer; Nicole Samson, senior trial lawyer; and I am Marion Rabanit,
16 associate trial lawyer.
17 PRESIDING JUDGE FREMR: [9:36:05] Thank you, Ms Rabanit. Thank you for the
18 appearances. And now I can confirm I can hear perfectly.
19 Now, Defence, please.
20 MR GOSNELL: [9:36:22] Good morning, Mr President. Christopher Gosnell for
21 Mr Ntaganda this morning, assisted by Chloé Grandon.
22 PRESIDING JUDGE FREMR: [9:36:36] Thank you, Mr Gosnell.
23 Legal Representatives of Victims, please.
24 MS PELLET: [9:36:38] (Interpretation) Thank you, your Honour. The former child
25 soldiers are represented by Mohamed Abdou and myself, Sarah Pellet, OPCV.

1 MR SUPRUN: [9:36:53] (Interpretation) Good morning, your Honours. The victims
2 of the attacks are represented by myself, Dmytro Suprun, counsel within the OPCV.

3 PRESIDING JUDGE FREMR: [9:37:04] Thank you, Ms Pellet. Thank you,
4 Mr Suprun.

5 Before we start with testimony, I would like to highlight that for the purposes of
6 timing for this witness, as indicated in the Chamber's decision of 2nd December
7 2016, which bears the filing number 1667, the Prosecution shall have one hour to
8 examine the witness which shall include the process of seeking admission of the
9 witness material under Rule 68(3) as well as its supplementary examination of the
10 witness. The Defence has been permitted two hours for cross-examination of the
11 witness.

12 Further, the Chamber has taken note of the Defence notice of objections to the use or
13 admission of certain documents and it will address any such objections if and when
14 they arise.

15 Now we can turn to the scheduled testimony, and we have already noted that we
16 have our video link connection working.

17 WITNESS: DRC-OTP-P-0773

18 (The witness speaks Swahili)

19 (The witness gives evidence via video link)

20 PRESIDING JUDGE FREMR: [9:38:33] Madam Witness, can you hear me?

21 THE WITNESS: [9:38:37] (Interpretation) Yes.

22 PRESIDING JUDGE FREMR: [9:38:38] Can you also watch what is going on on the
23 screen?

24 THE WITNESS: [9:38:49] Yes. Yes, I can see and I can hear you.

25 PRESIDING JUDGE FREMR: [9:38:57] Very well. Madam Witness, on behalf of the

1 Chamber, I would like to welcome you. You are called to testify in the case against
2 Mr Bosco Ntaganda. You will be today asked questions both by the Judges and
3 lawyers here in this courtroom, and in this connection I would like to guide you as
4 follows:

5 Please listen carefully to those questions. If you do not understand, please feel free
6 to ask for the question to be repeated. We want you to tell the truth and tell us
7 what you saw, heard, and sensed yourself. If you didn't see or hear it yourself but
8 you found out some other way, then you should explain how. Please testify just on
9 that which you remember. Don't guess. Don't make things up. There is nothing
10 wrong in saying "I don't know" or "I don't remember."

11 Do you understand all this, Madam Witness?

12 THE WITNESS: [9:40:30] (Interpretation) Yes, I have understood.

13 PRESIDING JUDGE FREMR: [9:40:32] Fine. Madam Witness, protective measures
14 are put in place to ensure that your identity is not revealed to the public. It means
15 that the public cannot see your face on the screen and that your voice is being
16 disguised so that the public cannot recognise it. We will refer to you as "Madam
17 Witness" only and ensure that your name and any other information that risks
18 revealing who you are is not broadcast to the public. Therefore, whenever you
19 need to describe anything that might reveal your identity, we will do so in private
20 session so that no one outside the courtroom can hear your answer.

21 Do you understand, Madam Witness?

22 THE WITNESS: [9:41:40] (Interpretation) Yes, I have understood.

23 PRESIDING JUDGE FREMR: [9:41:45] Very well.

24 Madam Witness, now you should be provided with a piece of paper with the text of
25 the solemn undertaking. Do you have it?

1 THE WITNESS: [9:42:00] (Interpretation) Yes, I have it right here.

2 PRESIDING JUDGE FREMR: [9:42:05] So please now make your solemn undertaking
3 to tell the truth by reading out the declaration on the piece of paper you have in
4 front of you.

5 THE WITNESS: [9:42:34] (Interpretation) May I raise my hand? I solemnly declare
6 that I will speak the truth, the whole truth and nothing but the truth.

7 PRESIDING JUDGE FREMR: [9:42:54] Thank you, Madam Witness. It means that
8 now you are under oath and you need to be aware that it is an offence within the
9 jurisdiction of this Court to give false testimony. Do you understand that?

10 THE WITNESS: [9:43:20] (Interpretation) Yes.

11 PRESIDING JUDGE FREMR: [9:43:21] Good. And finally, a few practical matters
12 you should have in mind in giving your testimony.

13 It's important to speak into the microphone, which you so far are doing very well, to
14 speak clearly and to speak at the slow pace, approximately like me, to allow the
15 interpreters to translate everything. You should only start speaking when the
16 person asking you the question has finished. So when a question is asked, please
17 do not respond immediately but keep a pause of at least three seconds and only then
18 please give your answer, because this pause of three seconds is essential for us to
19 properly hear and record and translate what you are saying.

20 If you have any questions during your testimony, do not hesitate to let us know.

21 We will then give you the opportunity to speak. If you cannot hear us well or need
22 to take a break, please let the court officer who is now with you in the room know.
23 So that's all for my part for the moment. So, Madam Witness, have you understood
24 all of that?

25 THE WITNESS: [9:45:04] (Interpretation) Yes, I have understood.

1 PRESIDING JUDGE FREMR: [9:45:05] Very well, Madam Witness. So now we can
2 move -- we can start your testimony, so I am giving the floor to the Prosecution, to
3 Ms. Rabanit.

4 MS RABANIT: [9:45:15] Thank you, Mr President.

5 PRESIDING JUDGE FREMR: [9:45:17] Ms Rabanit, we are in open session, so please
6 take it into account.

7 MS RABANIT: [9:45:30] I will.

8 QUESTIONED BY MS RABANIT:

9 Q. [9:45:43] (Interpretation) Good morning, Madam Witness.

10 A. [9:45:45] Good morning.

11 Q. [9:45:46] My name is Marion Rabanit and today I will be putting a number of
12 questions to you on behalf of the OTP. Now, for the first part of my questioning, so
13 as not to identify you, I will be asking the Presiding Judge if we can go into private
14 session.

15 MS RABANIT: [9:46:15] I would like to go into private session, please.

16 PRESIDING JUDGE FREMR: [9:46:19] Certainly.

17 Court officer, let us move into private session, please.

18 THE COURT OFFICER: [9:46:24] We are in private session.

19 (Private session at 9.46 a.m.)

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Trial Hearing
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(Private Session)

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25 (Open session at 11.05 a.m.)

1 PRESIDING JUDGE FREMR: [11:05:29] Thank you. So we are now taking our

2 regular break for 30 minutes, which means we will reconvene at 11.35.

3 (Recess taken at 11.05 a.m.)

4 (Upon resuming in open session at 11.36 a.m.)

5 THE COURT USHER: [11:36:28] Please be seated.

6 PRESIDING JUDGE FREMR: [11:36:45] We will continue with cross-examination of

7 our witness through video link. At the moment we are in the regime of open

8 session, but since this witness is a protected one, I am asking, Mr Gosnell, whether

9 there is a need, subject to your prospective questions, to move into private session.

10 MR GOSNELL: [11:37:09] There is, Mr President.

11 PRESIDING JUDGE FREMR: [11:37:12] Understandable.

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

13 THE COURT OFFICER: [11:37:29] We're in private session, Mr President.

14 (Private session at 11.37 a.m.)

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Trial Hearing
DRC-OTP-P-0773

(Private Session)

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- 4 (The hearing ends in private session at 12.49 p.m.)