

Trial Hearing
WITNESS: DRC-OTP-P-0857

(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 Wednesday, 8 February 2017
9 (The hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: [9:32:58] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:33:30] Good morning, everyone.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:33:35] Yes, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 And for the record we are in open session.
19 PRESIDING JUDGE FREMR: [9:33:54] Thank you.
20 Now appearances if changed compared to yesterday.
21 Prosecution.
22 MS SIM: [9:34:01] Good morning, Mr President. Good morning, your Honours.
23 There are no changes for the Prosecution bench today.
24 PRESIDING JUDGE FREMR: [9:34:08] Thank you, Ms Sim.
25 Defence, please.

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1 MR GOSNELL: [9:34:10] Good morning, Mr President. Appearances are
2 unchanged for Mr Ntaganda this morning.

3 PRESIDING JUDGE FREMR: [9:34:15] Thank you, Mr Gosnell.
4 And Legal Representatives of Victims, please.

5 MR ABDOU: [9:34:20] Good morning, Mr President. Good morning, your
6 Honours. Same composition as yesterday afternoon for the former child soldiers.

7 MR SUPRUN: [9:34:32] (Interpretation) Good morning, your Honours. As regards
8 the victims of the attacks there is no difference to yesterday.

9 PRESIDING JUDGE FREMR: [9:34:43] Thank you, Mr Abdou. Thank you,
10 Mr Suprun.

11 Mr Witness, good morning

12 WITNESS: DRC-OTP-P-0857 (On former oath)

13 (The witness speaks Swahili)

14 THE WITNESS: [9:34:55] (Interpretation) Good morning.

15 PRESIDING JUDGE FREMR: [9:34:56] Mr Witness, we are going to continue with
16 your examination. It's my duty to remind you that you are still under oath, which
17 means that you have to speak truth and nothing but the truth. Do you understand
18 that?

19 THE WITNESS: [9:35:18] (Interpretation) Yes.

20 PRESIDING JUDGE FREMR: [9:35:20] Fine. Now I am giving floor to Ms Sim.

21 Ms Sim, you still have 6 minutes for -- I'm sorry that I had to interrupt you yesterday,
22 but first of all this session was anyway extended a bit and moreover we had some
23 official assignment so that was the reason why I proceeded like that.

24 Now you have the floor and we are in open session.

25 MS SIM: [9:35:46] Thank you, Mr President. I believe we can stay in open session.

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1 I have one question for the witness.

2 QUESTIONED BY MS SIM: (Continuing)

3 Q. And that is: Yesterday, Mr Witness, you had said that you had fought with
4 the Lendu combatants group and that had you fought in a number of locations, and
5 I was wondering if you could list the places where you fought, if you could tell the
6 Court the locations where you fought when you were with the Lendu combatants
7 group.

8 A. [9:36:26] When I joined the combatant group I fought in Reti, Bambu and in
9 Mongbwalu. At that point in time, UPC soldiers were attacking the villages.

10 Q. [9:36:53] And if you can remember, when was it that you fought in Reti?

11 A. [9:37:11] I didn't say Geti, I said Reti. Now, the attack took place in September
12 in Reti, 2003. And that same year we went back to Kobu, we were attacked and later
13 we went to fight in Bambu. And before the end of December 2003 or January 2004
14 we fought in Mongbwalu.

15 Q. [9:38:00] And when was the last battle that you fought when you were with the
16 Lendu combatants group?

17 A. [9:38:11] That was the Mongbwalu attack.

18 MS SIM: [9:38:21] Thank you, Mr President. Those are my questions.

19 PRESIDING JUDGE FREMR: [9:38:24] Thank you, Ms Sim.

20 Now I turn to Mr Suprun. Mr Suprun, the Chamber notes your filing number 1752,
21 which was the request in which you sought authorisation to question witness on three
22 topics. So now having heard the Prosecution examination, do you maintain your
23 request?

24 MR SUPRUN: [9:38:53] (Interpretation) Thank you, your Honour. Yes, I do, but I
25 will be very brief. I have very few questions to put to the witness.

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1 As regards the first topic, I would like to establish the impact which the events had on
2 the witness; and secondly, I would like to know whether the witness suffered any
3 other harm; and thirdly, I will ask the witness about his expectations in terms of
4 justice and reparations. And I shall require 10 minutes, your Honour.

5 PRESIDING JUDGE FREMR: [9:39:30] Defence, your position?

6 MR GOSNELL: [9:39:32] No objection, Mr President.

7 PRESIDING JUDGE FREMR: [9:39:36] So our ruling is that you are granted
8 10 minutes and usual caveat, please don't be repetitive concerned to questions put by
9 Ms Sim.

10 MR SUPRUN: [9:39:52] (Interpretation) Thank you, your Honour.

11 QUESTIONED BY MR SUPRUN: (Interpretation)

12 Q. [9:40:04] Good morning, Witness.

13 A. [9:40:07] Good morning.

14 Q. [9:40:11] We already know each other, but I shall introduce myself for the
15 purposes of the record. I am Dmytro Suprun and I represent the interests of the
16 civilians who suffered in the attacks in this case against Mr Bosco Ntaganda and I will
17 be putting some questions to you about your experiences during the war.

18 My first question is this. And, your Honour, I know that we are in open court. I
19 would like to go into private session, please.

20 PRESIDING JUDGE FREMR: [9:40:45] Certainly.

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

22 (Private session at 9.40 a.m.)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Open session at 9.44 a.m.)

3 THE COURT OFFICER: [9:44:40] We are in open session, Mr President.

4 PRESIDING JUDGE FREMR: [9:44:42] Thank you.

5 Mr Suprun, please.

6 MR SUPRUN: [9:44:46] (Interpretation)

7 Q. [9:44:48] Witness, as a victim of the war in Ituri in 2002-2003 what are your
8 expectations of the International Criminal Court in terms of justice at the conclusion
9 of these proceedings against Bosco Ntaganda?

10 A. [9:45:12] Well, I can state this: I would like to see justice done by the Court in
11 a fair fashion and that those who are responsible are convicted.

12 Q. [9:45:31] And if Bosco Ntaganda were to be convicted at the end of this trial,
13 would you wish to receive reparations for what you suffered?

14 A. [9:45:41] We, like other victims of that incident, have seen that the Court has
15 been seized of the matter and has arrested Bosco Ntaganda. The Court knows full
16 well that at the conclusion of the proceedings there are reparations and that all the
17 victims that suffered harm should receive reparation. This is the process which the
18 court is following and I can't force the Court to make me a beneficiary of reparations,
19 but given that reparations are part of the proceedings of the Court, then I shall
20 naturally be a beneficiary.

21 Q. [9:47:08] Witness, thank you very much for your answer.

22 MR SUPRUN: (Interpretation) Your Honour, I have no further questions.

23 PRESIDING JUDGE FREMR: [9:47:13] Thank you, Mr Suprun.

24 Now I am giving floor to Mr Gosnell.

25 Defence, you have your two hours.

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1 MR GOSNELL: [9:47:29] Thank you very much, Mr President.

2 QUESTIONED BY MR GOSNELL:

3 Q. [9:47:30] Good morning, Mr Witness. My name is Christopher Gosnell, I will
4 be asking you some questions this morning on behalf of the Defence. And I would
5 like to start by asking you a few questions about your background.

6 MR GOSNELL: So we will have to, Mr President, move into private session.

7 PRESIDING JUDGE FREMR: [9:47:52] Court officer, let's move into private session
8 now.

9 (Private session at 9.48 a.m.)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

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17 (Redacted)

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4 (Open session at 11.00 a.m.)

5 THE COURT OFFICER: [11:00:14] We are in open session, Mr President.

6 PRESIDING JUDGE FREMR: [11:00:19] Thank you, court officer.

7 So now we are taking our regular morning break for 30 minutes.

8 For your information, Mr Gosnell, you still have roughly 45 minutes. And we will
9 reconvene at half past 11.

10 THE COURT USHER: [11:00:37] All rise.

11 (Recess taken at 11.00 a.m.)

12 (Upon resuming in open session at 11.32 a.m.)

13 THE COURT USHER: [11:32:34] All rise.

14 Please be seated.

15 PRESIDING JUDGE FREMR: [11:33:00] We are going to continue with the
16 remainder of cross-examination of our witness.

17 Mr Gosnell, you have the floor and we are in open session. Is it possible to remain in?

18 No. All right. Understandable.

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

20 (Private session at 11.33 a.m.)

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9 (Open session at 12.36 p.m.)

10 THE COURT OFFICER: [12:36:21] We are in open session, Mr President.

11 PRESIDING JUDGE FREMR: [12:36:34] Thank you, court officer.

12 Mr Witness, it concludes your testimony. I would like to thank you that you

13 underwent such a long journey and that you testified, even if this testimony also

14 includes some maybe painful, painful memories. But we appreciate that you come

15 and that you patiently answered all questions put to you, and I believe that your

16 testimony will assist us in our effort to find the truth in this case.

17 So I thank you, Mr Witness, and we wish you safe journey home.

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

19 (The witness is excused)

20 PRESIDING JUDGE FREMR: [12:37:49] And having concluded this testimony we

21 are done with the agenda for today.

22 Since the next -- Mr Gosnell, please.

23 MR GOSNELL: [12:37:59] May I raise one procedural matter quickly? It may be the

24 most efficient way of dealing with it.

25 PRESIDING JUDGE FREMR: [12:38:05] Go ahead.

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1 MR GOSNELL: [12:38:05] It concerns the disclosure of the Defence
2 cross-examination list for P-116. The preparation session, as I understand it, will
3 continue this afternoon and your Honours issued a ruling on 7 November 2016,
4 page 38, line 20, in which you said, quote: "A cross-examining party may, however,
5 apply to the Chamber to delay provision of such a list in particular circumstances.
6 For example, where exceptionally witness preparation may not have been
7 completed." End quote.

8 So I would request on the basis of that decision that indeed we be permitted to delay
9 disclosure of our cross-examination list until the Prosecution has completed its
10 preparation with P-116.

11 Thank you very much, Mr President.

12 PRESIDING JUDGE FREMR: [12:39:08] Prosecution, any objection to that?

13 MS SIM: Thank you, Mr President. Of course it sort of depends on how delayed
14 the delay would be. So we sympathise with Defence counsel's position on wanting
15 to have full information before they provide their list, but also need to preserve our
16 position to be able to prepare for --

17 PRESIDING JUDGE FREMR: [12:39:29] Because at the moment I think our plan is
18 that we should start this testimony via video at 11.30. So would it be feasible for you,
19 Mr Gosnell, to provide Prosecution at least one hour before beginning of testimony
20 with such a list?

21 MR GOSNELL: [12:39:47] Certainly, Mr President, as long as the preparation is
22 completed before then and I imagine it will be.

23 PRESIDING JUDGE FREMR: [12:39:52] I am still building this negotiation on the
24 presumption that the preparation will finish this evening, so I guess it then should be
25 feasible, even for you, to have one hour before start of examination-in-chief, this list.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Open Session)

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1 Would it be sufficient for Prosecution?

2 MS SIM: [12:40:17] That sounds like a reasonable position to take, and if we have
3 issues or if there is something extraordinary that happens and we need to bring that
4 to your attention, we can do it at the time.

5 PRESIDING JUDGE FREMR: [12:40:27] All right. So under those conditions I think
6 there is common agreement that we will proceed in such a way. So even I open this
7 issue so this witness is planned to be heard in two sessions tomorrow, first one from
8 11.30 till 1 p.m. and the second one, 2.30 till 4 p.m. and the rest should be done on
9 Friday.

10 So if there are no further requests for the floor, we adjourn now and we will continue
11 tomorrow 11.30.

12 THE COURT USHER: [12:41:06] All rise.

13 (The hearing ends in open session at 12.41 p.m.)