

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 Judge Chang-ho Chung  
6 Trial Hearing - Courtroom 2  
7 Wednesday, 6 December 2017  
8 (The hearing starts in open session at 9.30 a.m.)  
9 THE COURT USHER: [9:30:40] All rise.  
10 The International Criminal Court is now in session.  
11 Please be seated.  
12 PRESIDING JUDGE FREMR: [9:31:00] Good morning, everybody.  
13 Court officer, please call the case.  
14 THE COURT OFFICER: [9:31:18] Thank you, Mr President.  
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor  
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.  
17 For the record, we are in open session.  
18 PRESIDING JUDGE FREMR: [9:31:32] Thank you.  
19 Appearances, please.  
20 MR IVERSON: [9:31:36] Good morning, your Honours.  
21 For the Prosecution this morning we have Laura Morris, Selam Yirgou, Charlotte  
22 Grippi, Nicole Samson and myself Eric Iverson.  
23 PRESIDING JUDGE FREMR: [9:31:48] Thank you, Mr Iverson.  
24 Defence, please.  
25 MR BOURGON: [9:31:54] (Interpretation) Good morning, your Honour.

1 Representing Bosco Ntaganda, who is present in this courtroom, Marie Mescam,  
2 Isabelle Martineau, Didace Nyirinkwaya and myself Stéphane Bourgon.

3 Thank you, your Honour.

4 PRESIDING JUDGE FREMR: [9:32:14] Thank you, Mr Bourgon.

5 And Legal Representatives of Victims, please.

6 MS PELLET: [9:32:19] (Interpretation) Thank you, your Honour. The former  
7 child soldiers are represented by Vony Rambolamanana and myself Sarah Pellet,  
8 counsel at the Office of the Public Counsel for Victims.

9 MR SUPRUN: [9:32:34] (Interpretation) Good morning, your Honour. The  
10 victims of the attacks have not changed since yesterday. Thank you so much.

11 PRESIDING JUDGE FREMR: [9:32:45] Thank you, Ms Pellet.

12 Thank you, Mr Suprun.

13 Today we are going to continue with cross-examination of our witness. As I said  
14 yesterday, Defence used two hours 27 minutes, so generally the Prosecution is  
15 expected to use the same time for cross.

16 And Mr Witness, good morning. Are you okay to continue in your testimony?

17 I'm afraid that -- Mr Witness, did you hear my greetings? Mr Witness, can you hear  
18 me? I believe there will be something with volume. Please check.

19 Now, Mr Witness, can you hear me now?

20 WITNESS: DRC-D18-D-0243 (On former oath)

21 (The witness speaks Swahili)

22 THE WITNESS: [9:34:15] (Interpretation) Yes, I can hear you now.

23 PRESIDING JUDGE FREMR: [9:34:17] Very well. So good morning, Mr Witness.

24 Welcome back. Today you will be cross-examined by Prosecution, so I would like to  
25 highlight that you are still under oath, which means that you have to speak truth and

1 nothing but the truth.

2 And I will also like to stress that this Court is governed by the principle of fair trial,  
3 which also means that both parties should be treated equally, which as regards you,  
4 means that you should reply all -- respond all questions put to you in the same style  
5 as you did it yesterday when you have been examined by Defence.

6 Do you understand that?

7 THE WITNESS: [9:35:15] (Interpretation) Yes, I do understand.

8 PRESIDING JUDGE FREMR: [9:35:17] Very well. So now the floor goes to  
9 Mr Iverson and we are in open session.

10 QUESTIONED BY MR IVERSON:

11 Q. [9:35:28] Good morning, sir. How are you this morning?

12 A. [9:35:37] Good morning. I'm well. No problem at all.

13 Q. [9:35:43] So just for your knowledge and for the knowledge of everyone in this  
14 courtroom, much of the -- many of my questions will have to be asked in private  
15 session because they pertain to your unique circumstances. Just the first few  
16 questionings I believe I can ask in open session and then after that I'll ask the  
17 Presiding Judge to move into private session.

18 So, sir, do you recall back in around April 2002 a group of APC mutineers who  
19 regrouped behind Thomas Lubanga?

20 A. [9:36:43] Yes.

21 Q. [9:36:47] And is it fair to say that this group of mutineers, they were largely of  
22 the Hema ethnicity?

23 A. [9:37:18] I don't know, because I wasn't part of that group. But what I was  
24 told was this was a mixed group.

25 Q. [9:37:33] And this group of former APC soldiers who were mutineers under

1 Thomas Lubanga, was this group training in Mandro, to your knowledge?

2 A. [9:37:51] All that I know is that there was one group that was trained in  
3 Uganda and the other group that was trained in Mandro.

4 Q. [9:38:32] And do you recall when that would have been, the training in  
5 Uganda?

6 A. [9:38:55] Right. I think that when the mutineers left the forest they headed  
7 towards Uganda. I cannot be more specific with regards to the dates. If you recall  
8 yesterday, I told you that I do not remember all the dates and the days.

9 Q. [9:39:30] And then with regard to the training in Mandro, do you recall when  
10 that was approximately? Or if you can't recall a date, can you place it in-between  
11 events?

12 A. [9:40:02] Honestly, I can't confirm the date, because when the mutineers left  
13 Uganda I travelled to -- towards Kisangani and it's only then that I came back.

14 Q. [9:40:30] And now, you know, you've answered the question with regard to  
15 Uganda. Now I'm interested in the period in which these mutineers were in Mandro,  
16 do you recall approximately when that was?

17 A. [9:41:11] If I'm not mistaken, because I really can't be very specific with  
18 regards to that, it could well be in 2002.

19 Q. [9:41:29] All right. And among the mutineers was Kisembo; is that right?

20 A. [9:41:48] I apologise, I think I told you that the mutineers left towards Uganda,  
21 and during this period I wasn't there, I was in Kisangani looking into my business.

22 Q. [9:42:16] Okay. Thank you for that clarification. And I was wondering if  
23 you could clarify the following issue for me, and that would be among the mutineers  
24 was, one of the mutineers was Kisembo; is that right?

25 A. [9:42:48] I do not remember.

1 Q. [9:43:02] All right. You do know though that that same group of mutineers  
2 later came to officially be known as the UPC; is that right?

3 A. [9:43:25] Yes.

4 Q. [9:43:32] All right.

5 Mr President, I would ask that we go into private session now.

6 PRESIDING JUDGE FREMR: [9:43:49] All right.

7 Court officer, let's move into private session now.

8 (Private session at 9.43 a.m.)

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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- 22 (Recess taken at 11.02 a.m.)
- 23 (Upon resuming in open session at 11.30 a.m.)
- 24 THE COURT USHER: [11:30:33] All rise.
- 25 Please be seated.

- 1 PRESIDING JUDGE FREMR: [11:31:06] Mr Witness, can you hear me well?
- 2 THE WITNESS: [11:31:18] (Interpretation) Yes, your Honour. I can hear you.
- 3 PRESIDING JUDGE FREMR: [11:31:22] Good. In such a case we can proceed
- 4 with the rest of your cross-examination by Prosecution, namely by Mr Iverson.
- 5 Mr Iverson, you have the floor and we are in open session.
- 6 MR IVERSON: [11:31:35] Thank you, Mr President. And I would request that we
- 7 immediately go into private session. I just don't see a way around it, honestly.
- 8 PRESIDING JUDGE FREMR: [11:31:46] Entirely understandable.
- 9 Now, court officer, let's move into private session.
- 10 (Private session at 11.31 a.m.)
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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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21 (Open session at 12.41 p.m.)

22 THE COURT OFFICER: [12:41:06] We're in open session.

23 PRESIDING JUDGE FREMR: [12:41:13] Mr Witness, now I have -- Chamber also

24 have a chance to put questions to you. I would like just to make inquiry on one topic

25 which haven't been touched by neither counsel. We are in open session, but if you

1 feel that your answer, potential answer, could contain something that could reveal  
2 identity, please just raise your hand and we will move into private session. Do you  
3 understand?

4 THE WITNESS: [12:41:48] Ndiyo.

5 PRESIDING JUDGE FREMR: [12:41:51] Fine. Mr Witness, my question is: Have  
6 you ever seen Mr Ntaganda being accompanied by bodyguards?

7 THE WITNESS: [12:42:11] (Interpretation) Yes.

8 PRESIDING JUDGE FREMR: [12:42:13] And just to have full picture, have you  
9 seen him with bodyguards often or rarely or just once? I would like to know in how  
10 many cases you could see him with his bodyguards.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 PRESIDING JUDGE FREMR: [12:43:03] Hold on, hold on, Mr Witness.

15 (Redacted)

16 PRESIDING JUDGE FREMR: [12:43:08] Hold on, Mr Witness. Hold on,  
17 Mr Witness. Let's move into private session. And please redact the last part of the  
18 answer.

19 (Private session at 12.43 p.m.)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-D18-D-0243

(Private Session)

ICC-01/04-02/06

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13 Page redacted – Private session

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1 (Redacted)

2 (Redacted)

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5 (Redacted)

6 (Redacted)

7 (Open session at 12.47 p.m.)

8 THE COURT OFFICER: [12:47:53] We are back in open session, Mr President.

9 PRESIDING JUDGE FREMR: [12:48:06] Thank you, court officer.

10 Mr Witness, I thank you very much. You spent with us, if I'm not wrong, three days.

11 It was, I can imagine, very demanding for you. But I appreciate that I believe you

12 did your best to answer all questions put to you and I hope that your testimony will

13 assist the Chamber in our effort to find the truth in this case. So I thank you very

14 much and we wish you safe journey home.

15 THE WITNESS: [12:48:47] (Interpretation) Thank you, your Honour. I'm very

16 grateful. I'd like to thank everybody. Everybody here at the ICC. However, there

17 is something that I want to say: People like myself mustn't have to suffer. I know

18 that you can discipline people.

19 But where it concerns communication, you know the importance of communication.

20 I think in such a case if you are told that one called Kisangani with a VHF, that can

21 help you, and you can call another witness in order to help.

22 PRESIDING JUDGE FREMR: [12:49:51] Mr Witness, as I think really said, we are

23 again in open session, so I don't want to, you know, prevent you from saying what

24 you want to say, but still it's even in our interest, and you know that we made some

25 steps in this regard, that you yourself even shouldn't reveal your identity by giving

1 some details that could lead to that, so please have it in mind. And please proceed  
2 if you want to say anything else.

3 THE WITNESS: [12:50:22] (Interpretation) I have nothing else to say. I just  
4 wanted to conclude and add something. That's it.

5 PRESIDING JUDGE FREMR: [12:50:32] So just once more, thank you very much,  
6 Mr Witness.

7 And now I ask court usher -- Mr Bourgon, you want to say anything in the presence  
8 of Mr -- could we free him, or?

9 MR BOURGON: [12:50:48] No, Mr President, I believe that the issue that the  
10 witness wanted to bring up is an issue of telephone communications for any  
11 witness --

12 PRESIDING JUDGE FREMR: [12:50:56] But we are -- we are in open.

13 MR BOURGON: [12:50:57] There's nothing --

14 PRESIDING JUDGE FREMR: [12:50:59] Okay, okay. Then please proceed.

15 MR BOURGON: [12:51:01] It's just the issue of witnesses appearing before the  
16 International Criminal Court. In this particular case we were informed that he was  
17 prevented from making any phone calls from the time he arrived here before his  
18 testimony. So we approach VWS to say he has not been -- he's not under oath yet,  
19 his testimony hasn't begun, he should be able to make phone calls. That's the issue I  
20 believe that the witness wanted to explain to the Chamber.

21 Thank you, Mr President.

22 PRESIDING JUDGE FREMR: [12:51:34] Thank you. Because I misunderstood  
23 first.

24 So, yes, Mr Witness, it's a pity. In such a case, if you had any problem, then you  
25 would be better to contact either, yeah probably the Chamber. So it's a pity that you

1 are coming a bit late, but we will at least to have it in mind for next potential same  
2 case. So thank you very much.

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

4 (The witness is excused)

5 PRESIDING JUDGE FREMR: [12:52:30] And since -- and I believe Mr Bourgon will  
6 confirm that since the next and last witness for this block, which is D-251, is ready to  
7 testify at the earliest tomorrow morning, am I correct, Mr Bourgon?

8 MR BOURGON: [12:52:49] Yes, Mr President.

9 PRESIDING JUDGE FREMR: [12:52:50] And otherwise I believe there are no  
10 obstacles to that, no problems with preparation session and so on, you don't have any  
11 such (Overlapping speakers)

12 MR BOURGON: [12:52:59] No, Mr President. The Chamber has waived the  
13 24-hour requirement. We will have a very short preparation session this afternoon  
14 and the witness will be ready in the morning.

15 PRESIDING JUDGE FREMR: [12:53:08] Very well.

16 Mr Iverson, do you want to say anything?

17 MR IVERSON: [12:53:13] No, I'm good. Thank you, Mr President.

18 PRESIDING JUDGE FREMR: [12:53:16] Because I saw you, that I thought that you  
19 are intending to stand up.

20 MR IVERSON: [12:53:19] No, I'm sorry. It's maybe my -- I'm getting hungry.  
21 That's all.

22 PRESIDING JUDGE FREMR: [12:53:23] I think we all.

23 Mr Bourgon --

24 MR BOURGON: [12:53:27] I have three request for transcript audio verifications,  
25 which --

- 1 PRESIDING JUDGE FREMR: [12:53:30] No problem. Go ahead, Mr Bourgon.
- 2 MR BOURGON: [12:53:32] Page 57, line 22 in English and page 57, line 11 in
- 3 French there was a problem with the word "security" versus "insecurity", we'd like the
- 4 audio to be listened again.
- 5 Page 45, lines 8 to 9 in English and page 45, lines 7 to 10 in French there was a
- 6 problem with the word "commander" that was used. We'd like to have the audio
- 7 listened to again.
- 8 And the third one is page 15, lines 1 to 3 in English and page 15, lines 23 to 25 in
- 9 French. The idea was whether the pillaging took place before or after the UPC left
- 10 Bunia.
- 11 So in those three cases we would like the Chamber to request that the audio be
- 12 listened again.
- 13 Thank you, Mr President.
- 14 PRESIDING JUDGE FREMR: [12:54:35] Yes, supported by the Chamber.
- 15 So now we can adjourn and we will reconvene tomorrow 9.30.
- 16 THE COURT USHER: [12:54:46] All rise.
- 17 (The hearing ends in open session at 12.54 p.m.)