

Trial Hearing
DRC-OTP-P-0773

(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 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

Trial Hearing
DRC-OTP-P-0773

(Open Session)

ICC-01/04-02/06

- 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.

Trial Hearing
DRC-OTP-P-0773

(Open Session)

ICC-01/04-02/06

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.) *(Reclassified partially in public)

20 PRESIDING JUDGE FREMR: [9:46:29] Thank you, court officer.

21 Ms Rabanit, please proceed.

22 MS RABANIT: [9:46:35] Thank you, Mr President.

23 THE INTERPRETER: [9:46:38] Message from the interpreters: We are receiving a
24 great deal of background noise from the video link and sound quality is poor. We
25 will do our best but we may have to ask you to bear with us.

- 1 MS RABANIT: [9:46:52] (Interpretation)
- 2 Q. [9:46:57] Your name, ma'am?
- 3 A. [9:46:58] (Redacted).
- 4 Q. [9:47:26] Ma'am, you were born (Redacted); is that not so?
- 5 A. [9:47:34] Yes.
- 6 Q. [9:47:37] On the (Redacted); correct?
- 7 A. [9:47:47] Yes.
- 8 MS RABANIT: [9:47:05] I note that there seems to be an issue with the translation or
- 9 the interpretation in English. What I said is that madam was born in (Redacted).
- 10 PRESIDING JUDGE FREMR: [9:48:17] All right. It should be corrected.
- 11 MS RABANIT: [9:48:29] (Interpretation)
- 12 Q. [9:48:37] *What ethnic group do you belong to?
- 13 A. [9:48:38] I am a Gegere person.
- 14 Q. [9:48:48] And you are from the Congo; is that not so?
- 15 A. [9:48:50] Yes.
- 16 Q. [9:48:53] And you speak and understand and read Swahili; is that so?
- 17 A. [9:49:04] Yes.
- 18 Q. [9:49:08] What is your current occupation, ma'am?
- 19 A. [9:49:24] (Redacted).
- 20 Q. [9:49:36] Ma'am, the Prosecution has made a request for your written
- 21 statement that you provided to the OTP investigators a few years ago to be admitted
- 22 or placed on the court record, and thus I will ask a number of questions about the
- 23 written statement that you gave. Do you understand?
- 24 A. [9:50:06] Yes.
- 25 MS RABANIT: [9:50:11] (Interpretation) I would like to ask the court officer if she

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 1 could kindly display a document on the screen, tab number *1.
- 2 THE INTERPRETER: Inaudible.
- 3 THE COURT OFFICER: [9:50:26] Can you please provide the ERN number, please.
- 4 MS RABANIT: [9:50:31] (Interpretation) (Redacted).
- 5 THE REMOTE COURT OFFICER: [9:51:09] (Interpretation) Your Honour.
- 6 PRESIDING JUDGE FREMR: [9:51:12] Yes, I can hear you.
- 7 THE REMOTE COURT OFFICER: [9:51:18] (Interpretation) I have the document
- 8 before me, (Redacted).
- 9 PRESIDING JUDGE FREMR: [9:51:42] All right.
- 10 THE INTERPRETER: [9:51:47] Message from the interpreters: Can the AV staff be
- 11 requested to try to improve the sound quality that we are receiving via the video
- 12 link, if at all possible. Many thanks.
- 13 MS RABANIT: [9:52:02] (Interpretation)
- 14 Q. [9:52:05] Now, is this the statement you gave (Redacted)
- 15 THE INTERPRETER: Inaudible.
- 16 MS RABANIT: (Interpretation)
- 17 Q. -- to the OTP investigators?
- 18 A. [9:52:21] Yes.
- 19 MS RABANIT: [9:52:39] (Interpretation) Court officer, remote location, could you
- 20 show the witness page (Redacted).
- 21 THE COURT OFFICER: [9:53:00] (Via video link) (Interpretation) Page 2?
- 22 MS RABANIT: [9:53:07] (Interpretation) I will give you the ERN number of this
- 23 particular page. It is as follows: (Redacted). This is the last page of the document.
- 24 THE COURT OFFICER: [9:53:38] (Via video link) (Interpretation) I am showing the
- 25 last page –

1 THE INTERPRETER: Inaudible.

2 MS RABANIT: [9:53:49] (Interpretation) Yes, indeed. That is the one.

3 Q. [9:53:57] Ma'am, can you see this particular page?

4 A. [9:54:07] Yes, I can see it.

5 Q. [9:54:08] Madam Witness, can you tell us whose signature we see in the
6 middle of the page?

7 A. [9:54:24] This is my signature.

8 THE INTERPRETER: [9:54:34] Message from the interpreter: Unfortunately, we are
9 unable to provide interpretation service with this level of sound quality.

10 PRESIDING JUDGE FREMR: [9:54:42] Sorry. Court officer, there is obviously some
11 problem with the noise in the video locality. Maybe it's the air-conditioner. I don't
12 know. But could we just get in touch with the video location and try to improve
13 that.

14 Ms Rabanit, I ask you for some indulgence because now at the moment the
15 interpreters are not able to provide translation because of this noise.

16 THE COURT OFFICER: [9:55:29] Indeed, Mr President. It has been reported
17 already to the AV booth, and they currently working on it to see which kind of noise
18 can be reduced without reducing the quality of the testimony. We are working on
19 it.

20 The background noise is coming from the field so we are working to reduce it as
21 much as possible. They are aware and the quality should improve now normally,
22 hopefully.

23 PRESIDING JUDGE FREMR: [9:56:43] All right. And, Ms Rabanit, on the other
24 hand, probably because the noise from the field is very noisy, while your voice is not
25 so loud, so maybe we have to make some balance. Maybe please speak a bit more

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 loudly, you, and maybe that will facilitate also the role of the interpreters. I know
2 that is not an easy situation but we have to make some effort to conduct this
3 testimony. So please proceed.

4 MS RABANIT: [9:57:25] Yes, Mr President. I will try to speak louder.

5 Q. [9:57:28] (Interpretation) Ma'am, I'm going to repeat my last question. Do
6 you remember meeting with OTP investigators about (Redacted)
7 (Redacted)?

8 A. [9:57:47] Yes, I remember.

9 Q. [9:58:28] Do you remember having the opportunity to review your written
10 testimony at that -- or statement, rather, at that time and having had the opportunity
11 to make corrections?

12 A. [9:58:44] Yes.

13 Q. [9:58:58] Ma'am, I'm now going to read out a paragraph from your written
14 statement, the paragraph that you wanted to make a correction to, and I will ask you
15 what the correction is. Do you understand?

16 A. [9:59:27] I've understood.

17 MS RABANIT: [9:59:28] For the record, I am reading paragraph (Redacted) of
18 document (Redacted).

19 Q. [10:00:04] (Interpretation) In English, and then it will be translated into
20 Swahili for you. Please listen carefully.

21 A. [10:00:12] Very well.

22 Q. [10:00:14] (Speaks English) (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted). This was prior to the war."
- 4 (Interpretation) Ma'am, I have finished reading out this paragraph. Could you tell
- 5 us what correction you would like to make to this paragraph, please.
- 6 A. [10:01:53] (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted).
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted).
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted).
- 20 THE INTERPRETER: [10:03:59] (Redacted).
- 21 THE WITNESS: [10:04:05] (Interpretation) (Redacted)
- 22 (Redacted). Afterwards war broke out when I was
- 23 still in the bush. When war broke out, we fled from the forest to the village
- 24 (Redacted). During this period, (Redacted), we did not see each other.
- 25 PRESIDING JUDGE FREMR: [10:04:45] Sorry to interrupt, Ms Rabanit. I would like

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 to put one additional question.

2 Madam Witness, what made you move to the bush?

3 THE WITNESS: [10:05:09] (Interpretation) Life had become very difficult. It was
4 necessary to get money. (Redacted). Life was difficult.

5 PRESIDING JUDGE FREMR: [10:05:20] All right. But could you be more
6 specific? (Redacted)

7 and you moved to the bush; am I right?

8 THE WITNESS: [10:05:38] (Interpretation) Yes, that's how it was.

9 PRESIDING JUDGE FREMR: [10:05:43] All right.

10 Ms Rabanit, please proceed.

11 MS RABANIT: [10:06:03] (Interpretation)

12 Q. [10:06:04] Madam, are there other corrections that you would like to make to
13 this statement which was read to you (Redacted)?

14 A. [10:06:26] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted).

18 Q. [10:07:01] (Redacted)?

19 A. [10:07:08] (Redacted)

20 (Redacted).

21 Q. [10:07:37] Madam, is the content of this written statement that you've just
22 clarified and corrected, is it true and correct, to the best of your knowledge and to
23 the best of your memory?

24 A. [10:07:02] Yes. Everything that I've just said here is true because (Redacted)

25 (Redacted) while I was in the bush.

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 Q. [10:08:19] Madam Witness, do you consent to this written statement, which
2 we call prior-recorded testimony, being tendered into evidence before this Court?

3 A. [10:08:41] (No audible response)

4 Q. [10:09:02] Did you hear me? Would you like me to clarify? Would you like
5 me to put my question again?

6 A. [10:09:09] Please could you clarify. I haven't understood. Please could you
7 put the question once again.

8 Q. [10:09:23] Of course, madam. This written statement that you gave to the
9 investigators and that you have just corrected, do you consent to it being presented
10 to the Judges as evidence before this Court?

11 A. [10:09:56] You're speaking about testimony about the (Redacted)?

12 PRESIDING JUDGE FREMR: [10:10:05] Ms Rabanit, I will take this.

13 Madam Witness, allow me to explain it to you. You provided testimony to the
14 investigators. Now Ms Rabanit showed you part of this testimony which is written,
15 and there is a possibility, not asking you to repeat everything now orally but simply
16 use your statement in writing as your testimony today, which would simplify our
17 proceedings. But we need your consent, not to ask you about everything again but
18 to use your statement from the past. So do you agree with this?

19 THE WITNESS: [10:11:01] (Interpretation) No, I don't agree. What I testified before,
20 I hadn't spoken to (Redacted) at the time. (Redacted)
21 (Redacted).

22 PRESIDING JUDGE FREMR: [10:11:29] All right, Madam Witness, but probably you
23 misunderstood. What I'm saying now, and you were given a chance to correct --

24 THE WITNESS: [10:11:43] (Interpretation) I haven't understood.

25 PRESIDING JUDGE FREMR: [10:11:48] Madam Witness, let me finish and I will try

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 again. You testified on some issues in the past. It was put in writing. And now
2 we have your previous testimony that Ms Rabanit referred to. She also showed you
3 this -- your testimony from the past. She also gave you a chance to make some
4 corrections. You made it. And now because we -- in order to spare some time, we
5 don't -- there is a request not to ask you again about everything but to take your
6 previous testimony as truthful and to take as evidence a part of your testimony
7 today also what is written in your prior-recorded testimony, which now you said is
8 true. So the only condition that we can take both today's testimony and your
9 previous testimony is that you have to agree with this, which would simplify our
10 proceedings and would spare our time. So now, Ms Rabanit is asking you whether
11 you agree -- do you agree with this.

12 THE WITNESS: [10:13:26] (Interpretation) What's true is that (Redacted) was in
13 military service. That's the truth. Everything I said here, that's the truth.

14 MS RABANIT: [10:13:51] (Interpretation)

15 Q. [10:13:52] Madam, the proceedings that we're speaking about, well, that's the
16 procedure that I spoke to you about (Redacted) by way of preparation. I'll try and
17 do it once again and quickly.

18 Now, you gave the investigators of the Office of the Prosecutor a written
19 statement (Redacted). This written statement is something that you have
20 corrected before us today. As regards to what you said about (Redacted) and
21 what you found at that time, you've said; but what we're proposing to do is to
22 take the written statement and the corrections you've made thereto today such
23 that they be considered your testimony, and thereafter the other parties and the
24 Judges will ask you certain questions. Would that procedure be acceptable to
25 you and do you consent thereto?

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 A. [10:15:02] Yes, I agree.

2 Q. [10:15:16] Madam, do you consent to the Defence and the Judges putting
3 questions to you about the events that are contained in this written statement?

4 A. [10:15:29] Yes, they can ask questions. That's something I've already said.

5 MS RABANIT: [10:15:43] (Interpretation) Your Honour, your Honours, I would ask
6 to tender into evidence this prior-recorded testimony under Rule 68(3). To be
7 complete, this is the witness statement with the number (Redacted).

8 PRESIDING JUDGE FREMR: [10:16:13] Defence, any objection?

9 MR GOSNELL: [10:16:15] No, Mr President.

10 PRESIDING JUDGE FREMR: [10:16:16] Thank you.

11 So the document now specified by Ms Rabanit is admitted, according to Rule 68(3),
12 into evidence as a further Prosecution exhibit. And my congratulations,
13 Ms Rabanit.

14 MS RABANIT: [10:16:45] (Interpretation)

15 Q. [10:16:46] I'd like to thank you for having answered my questions. I have no
16 further questions for you for the moment.

17 MS RABANIT: [10:16:54] That completes my examination.

18 PRESIDING JUDGE FREMR: [10:16:59] All right. So now it's the turn for the
19 Defence.

20 Mr Gosnell, as we indicated, you should take two hours in maximum for
21 cross-examination.

22 MR GOSNELL: [10:17:12] May I just cross the floor to obtain the lectern,
23 Mr President?

24 PRESIDING JUDGE FREMR: [10:17:18] All right. Maybe, registrar, next time I
25 think, would it be a big issue to also provide both parties with one piece of this item?

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 I hope that won't be a problem.

2 MR GOSNELL: [10:18:03] Thank you very much, Mr President.

3 QUESTIONED BY MR GOSNELL:

4 Q. [10:18:06] Good morning, Madam Witness. My name is Christopher Gosnell

5 and I will be asking you some questions this morning. And you've just finished

6 telling us that, when you were asked whether or not you consented to your

7 statement being admitted, your first response to that question was: "No, I don't

8 agree. What I testified before, I hadn't spoken to (Redacted) at the time. (Redacted)

9 (Redacted).

10 That's line 14 of page 13 of today's transcript.

11 Do I understand you to be saying that when you gave your statement in (Redacted),

12 which was in (Redacted), when you gave that statement, you had not yet spoken

13 with (Redacted)

14 (Redacted)?

15 A. [10:20:10] Yes.

16 Q. [10:20:14] And when did you have the conversation with (Redacted) in which

17 she explained to you (Redacted)?

18 A. [10:20:36] She spoke to me about it (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted).

24 Q.[10:21:29] Well, what you've just told us, at line 14 of page 13, is that "(Redacted)

25 (Redacted)."

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 Are you saying that (Redacted) told you that when (Redacted)

2 (Redacted)?

3 A. [10:22:12] (Redacted)

4 (Redacted).

5 Q. [10:22:22] I understand you weren't there, Madam Witness, so I'm not asking

6 you about what you saw. I'm asking you about what you were told (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)?

10 A. [10:22:04] (Redacted).

11 Q. [10:23:08] (Redacted)?

12 A. [10:23:28] (Redacted).

13 Q. [10:23:32] Let's have a look at your first statement. This is tab (Redacted),

14 (Redacted). Madam Witness, do you have this in front of you, and do you

15 recognise it as the first page of the statement that you were just shown by the

16 Prosecution?

17 A. [10:24:34] Yes.

18 Q. [10:24:45] And we see the dates, (Redacted). And now if we could turn,

19 please, to page (Redacted), which is page (Redacted) of the document. And it says

20 here that: "The statement has been read over to me in the English and Swahili

21 languages and is true to the best of my knowledge and recollection." Is that your

22 signature underneath that passage where it says "Signed"?

23 A. [10:25:41] Yes, that's my signature.

24 Q. [10:25:47] And you understood by putting your signature on this document

25 that you were affirming that the content of this statement was true the best of your

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 knowledge and recollection; correct?

2 A. [10:26:16] Yes.

3 Q. [10:26:16] At this time, did you know, at the time that you gave this statement,
4 did you know (Redacted) had already started being interviewed by the ICC?

5 A. [10:26:42] I knew.

6 Q. [10:26:44] And you knew that because (Redacted)
7 (Redacted), had you not? (Redacted)

8 (Redacted)?

9 A. [10:27:14] Could you put the question again?

10 Q. [10:27:16] Yes. (Redacted)

11 (Redacted)

12 (Redacted)?

13 A. [10:27:51] (Redacted)?

14 Q. [10:27:52] (Redacted).

15 A. [10:28:03] (Redacted)?

16 Q. [10:28:08] Well, I just asked you, "At this time did you know, at the time that
17 you gave this statement, did you know (Redacted) had already started being
18 interviewed by the ICC," and your answer to my question was yes. Now, the
19 question that I am now asking you is you knew about --

20 A. [10:28:39] (Redacted).

21 Q. [10:28:46] Yes. And you knew she was being interviewed. Did she talk to
22 you about what she was being interviewed about?

23 A. [10:29:10] No. She never spoke about questions that were put to her.

24 Q. [10:29:23] (Redacted)

25 (Redacted)

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 (Redacted)?

2 A. [10:29:43] No. I knew nothing about that.

3 Q. [10:29:47] Let's turn back, please, to page (Redacted), which is ERN page (Redacted),
4 paragraph 10, and I'd like to ask you about paragraph 10 and whether it is correct.

5 (Redacted)

6 (Redacted)." Is that correct?

7 A. [10:30:25] Yes.

8 Q. [10:30:38] (Redacted). Is that correct?

9 A. [10:30:43] (Redacted)

10 (Redacted).

11 Q. [10:31:10] (Redacted)

12 (Redacted)? Is that correct?

13 A. [10:31:34] (Redacted)

14 (Redacted)

15 (Redacted).

16 Q. [10:31:53] So you're saying that's not correct. (Redacted)

17 (Redacted).

18 A. [10:32:09] (Redacted)

19 (Redacted)

20 (Redacted).

21 Q. [10:32:39] The next sentence says: "In the same year I moved to where my
22 mother was in (blank). (Redacted)

23 (Redacted)." Is that correct?

24 A. [10:33:09] That is true.

25 Q. [10:33:14] And then the next sentence which you have not corrected so far, at

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 least not expressly, is: (Redacted)

2 (Redacted). Is that correct or is that false?

3 A. [10:33:34] (Redacted). I don't deny that.

4 What I said was that when I was in the bush, (Redacted)

5 (Redacted)

6 (Redacted). So I was in the bush. (Redacted), I went into the bush to go and

7 get some money. (Redacted)

8 (Redacted), and myself at that time I was living in the bush. And to my

9 knowledge (Redacted).

10 Q. [10:34:40] (Redacted), according to your knowledge at the time?

11 When I say "at the time" I mean at the time you gave -- Madam Witness,

12 let me just -- let me just finish my question. At the time that you gave

13 this statement.

14 PRESIDING JUDGE FREMR: [10:35:28] Mr Gosnell, it was partially -- sorry, I said

15 there was some overlapping that probably you will need to repeat your question

16 again.

17 MR GOSNELL: [10:35:37]

18 Q. Let me just repeat my question, Madam Witness. Sorry for interrupting

19 your answer. (Redacted) am I correct that your understanding when you

20 gave your statement in (Redacted) that we're looking at, it was your

21 understanding that (Redacted)

22 (Redacted); correct?

23 A. [10:36:18] That is correct because (Redacted)

24 (Redacted), and that was when I went into the bush. (Redacted)

25 (Redacted)

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted).

6 Q. [10:37:19] And the only basis for the correction that you've made to your
7 statement and the only basis for you believing that (Redacted)

8 (Redacted), am I correct, is what you were told by (Redacted) after you gave
9 this statement. That's right, isn't it?

10 A. [10:38:06] Listen, when I found out that (Redacted), that was the day,
11 the first time that I had been shown the (Redacted)
12 (Redacted), so I was surprised.

13 Q. [10:38:30] When were you shown those (Redacted), if you can recall?

14 A. [10:38:46] When I was talking -- well, the very first time when I was talking
15 about the investigators. That was in the (Redacted).

16 Q. [10:39:56] Well, let's have a good look at your statement, and I think we can
17 figure this out together. At paragraph 11 of your statement, you say the following:

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted).

23 This was prior to the war."

24 And then this is what you say at paragraph 12, and I'm reading it so that you see the
25 sequence of these two paragraphs.

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted).

7 Now, first of all, Madam Witness, am I correct that you were shown the (Redacted)

8 (Redacted) that you've just been referring to, you were shown those (Redacted) after

9 you had already provided the information about (Redacted)

10 (Redacted). That happened after that; right?

11 A. [10:41:29] When I was shown these (Redacted), at that time (Redacted) had

12 already -- had already spoken to the investigators. And they called me, and (Redacted)

13 (Redacted), they showed me the (Redacted)

14 (Redacted). So I said I would ask.

15 (Redacted) so I was surprised it was only later. After that interview with the

16 investigators, I asked (Redacted)

17 (Redacted)

18 (Redacted).

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted).

23 Q. [10:42:47] (Redacted)

24 (Redacted)

25 (Redacted)?

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 A. [10:43:32] That is true. (Redacted)

2 (Redacted).

3 Q. [10:43:40] (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)?

7 MS RABANIT: [10:44:10] I object, Mr President.

8 PRESIDING JUDGE FREMR: [10:44:12] Ms Rabanit, on what ground?

9 MS RABANIT: [10:44:14] Well, I think the question should be restricted to this event
10 rather than general behaviour that is irrelevant to what we are trying to find out
11 here.

12 PRESIDING JUDGE FREMR: [10:44:34] Mr Gosnell.

13 MR GOSNELL: [10:44:34] I think that it is relevant to assess -- perhaps the witness'
14 earphones ought to be --

15 PRESIDING JUDGE FREMR: [10:44:42] But I think -- it's clear to me. The objection
16 is overruled. Please go ahead.

17 MR GOSNELL: [10:44:42] Thank you.

18 PRESIDING JUDGE FREMR: [10:44:43] It's about the credibility so --

19 MR GOSNELL: [10:44:50] Thank you.

20 Q. [10:44:51] Madam Witness, do you remember my question or shall I repeat it?

21 A. [10:45:02] I believe you've misunderstood me. I didn't say that he had
22 deceived me, but there was confusion. I was confused. To my mind -- well, I was
23 trying to say that I was confused. I didn't say that he deceived me or misled me.

24 Q. [10:45:32] And you make no mention in paragraph -- well, let me just ask:

25 How (Redacted) in total, according to you, did you spend in the bush?

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 A. [10:46:03] (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted) I went back into the bush. (Redacted)

7 (Redacted)

8 (Redacted).

9 Q. [10:46:55] So during this time period we are talking about (Redacted) in the
10 bush; is that correct?

11 A. [10:47:19] Yes.

12 Q. [10:47:19] No mention of that in your statement, is there, Madam Witness?
13 You didn't mention that (Redacted)
14 (Redacted)?

15 A. [10:47:44] Yes, that's true. (Redacted).

16 Q. [10:47:49] (Redacted)

17 (Redacted)?

18 A. [10:47:13] (Redacted)

19 (Redacted).

20 MR GOSNELL: [10:48:23] (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted).

25 PRESIDING JUDGE FREMR: [10:48:59] Ms Rabanit, do you see any risk if

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 Mr Gosnell would mention those details in his questions?

2 MS RABANIT: [10:49:11] No. We have no objection to this.

3 PRESIDING JUDGE FREMR: [10:49:14] Neither do I.

4 All right. Please proceed.

5 MR GOSNELL: [10:49:19] Thank you. I think I'm still waiting for the document to
6 come up. It's (Redacted), and there it is.

7 Q. [10:49:32] Now, Madam Witness, this is a document entitled: "Record
8 of Rule 68(2)(b)(iii) Meeting." The date is the (Redacted). Now, do you
9 remember -- and earlier today you referred to the people who came to visit
10 you as being judges, but do you remember that these people who you've
11 referred to as judges came to see you at (Redacted), to discuss your
12 previous statement?

13 A. [10:50:32] Yes, I do remember.

14 Q. [10:50:36] (Redacted)
15 (Redacted)?

16 A. [10:51:03] (Redacted)
17 (Redacted). I only learned about that when I met them.

18 Q. [10:51:20] When you met who?

19 A. [10:51:39] I don't remember *his name. (Redacted)
20 (Redacted).

21 Q. [10:51:48] Was that on the occasion -- on this date, (Redacted)
22 that you learned *that information from (Redacted)
23 or was it some other occasion?

24 A. [10:52:23] Well, the information was that -- they just said that we had to talk
25 about -- we were just talking at that place, nothing other than that.

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 Q. [10:52:40] But when and -- when was this? When was this meeting that
2 you're referring to with (Redacted)?

3 A. [10:53:01] It was during the day. The time I don't remember, but I do
4 remember that it was in the course of the day.

5 Q. [10:53:16] How long ago did this meeting occur, approximately?

6 A. [10:53:38] (Redacted). Unfortunately, I didn't try to determine which year
7 or month it was, (Redacted)
8 (Redacted).

9 Q. [10:54:03] Let's look at the document in front of us and perhaps that will help.
10 You are recorded in this document as having said the following during a meeting
11 with investigators of the Office of the Prosecutor:

12 "I would like to make corrections or clarifications(s) to Para 11 on page 3. (Redacted)
13 (Redacted) because life
14 was too hard for me. (Redacted)
15 (Redacted).

16 Now, Madam Witness, what jogged your memory in order to make this particular
17 correction to your statement, if anything?

18 A. [10:55:35] Why I made that correction? (Redacted)
19 (Redacted)
20 (Redacted).

21 Q. [10:55:51] And when was it that you spoke (Redacted)? You've just referred to
22 having to spoken (Redacted). I want to make sure that I know exactly when it is you
23 say you spoke (Redacted) about this.

24 A. [10:56:27] (Redacted)
25 (Redacted)

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted).

4 Q. [10:57:52] And when approximately did you have this conversation? Can
5 you remember a date? How long after your first statement, having given your first
6 statement, did you have that conversation (Redacted)?

7 A. [10:57:25] (Redacted) after I had spoken to the investigators. (Redacted)
8 (Redacted).

9 Q. [10:57:37] So that was in (Redacted); correct?

10 A. [10:57:50] yes.

11 Q. [10:57:52] (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Is that what you're saying?

16 A. [10:58:38] At that time I hadn't yet met them. Well, they hadn't asked me that
17 question.

18 Q. [10:58:49] During this interview that's referred to in this document, was there
19 any suggestion by the people who were asking you questions that this was a
20 paragraph that you should take a particular look at in terms of a correction?

21 A. [10:59:31] Telling the investigators that I met with her the first time?

22 Q. [10:59:39] No, Madam Witness. I'm just asking you now whether the
23 investigators asked you at this meeting on the (Redacted), whether you
24 should focus in particular on whether you wanted to make a correction to
25 paragraph 11?

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 A. [11:00:17] No. I was the one who told them that. It wasn't them who
2 suggested it. I told them. (Redacted)
3 (Redacted)." They were not the ones who suggested that I change it. I was the one
4 who told them that it needed to be changed.

5 Q. [11:00:50] And did they show you any documents in the course of this
6 interview?

7 A. [11:00:09] (Redacted), yes, they showed me that.

8 Q. [11:01:17] Did they show you (Redacted) documents before or after you had
9 indicated you wanted to make a correction?

10 A. [11:01:42] They showed me that before because I said to them, "No, I didn't
11 say correct about (Redacted)." So they said to me, "Explain." And then I explained
12 to them how things had happened.

13 Q. [11:02:06] And between the (Redacted)...

14 PRESIDING JUDGE FREMR: [11:02:14] Sorry, Ms Rabanit.

15 MS RABANIT: [11:02:16] Yes. I'm sorry to interrupt but I would like to make
16 something clear for the record, and I think maybe the witness should have the sound
17 cut.

18 PRESIDING JUDGE FREMR: [11:02:25] Yes. May I ask court officer in the field just
19 to avoid that at the moment Madam Witness could hear what we are showing now
20 here, so please could you just.

21 THE COURT OFFICER: [11:02:52] (Via video link) (Interpretation) We will reduce
22 the sound.

23 PRESIDING JUDGE FREMR: [11:03:53] Now, Ms Rabanit, please proceed.

24 MS RABANIT: [11:03:57] Yes, Mr President. Just to say that the documents that
25 were shown to the witness during the Rule 68(2)(b) procedure, documents were

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 shown to her during the time where her written statement was taken. So it's
2 according to this procedure so that she could at the time assess to the truth of the
3 content of her previous statement. That's it.

4 PRESIDING JUDGE FREMR: [11:03:27] Thank you for this qualification. And
5 before we break, probably -- because, Mr Gosnell, you so far exhausted
6 approximately 40-something, 43 minutes. You have two hours. I don't expect that
7 you should be able to finish in the next 25 minutes. No, all right. So then we will
8 break, but you can still finish this issue.

9 So now you would like again to have full connection with the field. Now we can
10 allow the witness to hear what we are saying here.

11 Court usher in the field, are we connected again? I mean fully connected.

12 THE COURT OFFICER: [11:04:17] (Via video link) (Interpretation) Yes, your
13 Honour, we are connected.

14 PRESIDING JUDGE FREMR: [11:04:20] Thank you.

15 Mr Gosnell, you may put your last question before the break.

16 MR GOSNELL: [11:04:24] Yes, Mr President. Thank you.

17 Q. [11:04:27] And, Madam Witness, between -- well, in the week prior to giving
18 this statement, did you speak (Redacted)?

19 A. [11:05:01] No. No, I didn't speak to (Redacted).

20 MR GOSNELL: [11:05:07] Mr President, I think we have to leave it there until after
21 the break.

22 PRESIDING JUDGE FREMR: [11:05:11] All right. Now let's move into open session
23 for the remainder.

24 THE COURT OFFICER: [11:05:26] We are in open session, Mr President.

25 (Open session at 11.05 a.m.)

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 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.) *(Reclassified partially in public)
- 15 PRESIDING JUDGE FREMR: [11:37:32] Thank you, court officer.
- 16 Mr Gosnell, please proceed.
- 17 MR GOSNELL: [11:37:35] Mr President, I tender the document we were just looking
- 18 at. It's not on the screen anymore, but it's (Redacted), tab (Redacted).
- 19 PRESIDING JUDGE FREMR: [11:37:51] Prosecution, any objection?
- 20 MS RABANIT: [11:37:57] No objection, your Honour.
- 21 PRESIDING JUDGE FREMR: [11:38:00] So this document is admitted into evidence
- 22 as a further Defence exhibit.
- 23 Mr Gosnell, please proceed.
- 24 MR GOSNELL: [11:38:11] May we have --
- 25 PRESIDING JUDGE FREMR: [11:38:12] I'm sorry, and for your information, you still

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 have one hour, 16 -- 15 minutes.

2 MR GOSNELL: [11:38:16] Thank you, Mr President.

3 May we have, please, (Redacted), tab (Redacted). It is DRC --

4 THE COURT OFFICER: [11:39:06] (Via video link) (Interpretation) Which page
5 number is it, please?

6 MR GOSNELL: [11:39:07] Yes, it is (Redacted), tab (Redacted).

7 Q. [11:39:20] And if we could please turn directly to page (Redacted) of this
8 document, ERN (Redacted), we see a description, Madam Witness, of your
9 conversation with the Prosecution that occurred on (Redacted) and it records you as
10 having said the following, and I'll quote:

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 the witness indicates that she did not personally know. (Redacted)

16 (Redacted)

17 Madam Witness, is that what you told the Prosecution lawyers when they
18 interviewed you about a (Redacted)?

19 A. [11:41:10] you're talking about (Redacted) ago? We spoke about all that, that
20 (Redacted), where we discussed these (Redacted).

21 Q. [11:41:26] Actually, Madam Witness, I'm referring to (Redacted) conversation
22 that you had (Redacted) ago with the Prosecutors, and this is the explanation that is
23 attributed to you. Is that what you said during that communication?

24 A. [11:42:00] Yes.

25 Q. [11:42:03] And it's also true and correct?

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 1 A. [11:42:24] Yes. What I've just explained here concerning (Redacted) is
- 2 correct.
- 3 Q. [11:42:32] (Redacted)
- 4 (Redacted)?
- 5 A. [11:42:45] (Redacted).
- 6 MR GOSNELL: [11:42:48] (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 PRESIDING JUDGE FREMR: [11:43:07] (Redacted)?
- 11 MR GOSNELL: [11:43:09] (Redacted).
- 12 PRESIDING JUDGE FREMR: [11:43:18] Ms Rabanit?
- 13 MS RABANIT: [11:43:20] No objection, Mr President.
- 14 PRESIDING JUDGE FREMR: [11:43:22] All right, then.
- 15 MR GOSNELL: [11:43:24] This is tab (Redacted), (Redacted), please.
- 16 Q. [11:44:56] (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)?
- 5 A. [11:46:08] (Redacted)
- 6 Q. [11:46:18] (Redacted)
- 7 (Redacted).
- 8 A. [11:46:43] (Redacted)
- 9 (Redacted).
- 10 Q. [11:46:48] (Redacted)
- 11 (Redacted)?
- 12 A. [11:47:13] (Redacted)?
- 13 Q. [11:47:16] (Redacted).
- 14 A. [11:47:41] (Redacted).
- 15 Q. [11:47:45] (Redacted)
- 16 (Redacted)
- 17 (Redacted)?
- 18 A. [11:48:23] (Redacted).
- 19 Q. [11:48:25] (Redacted)
- 20 (Redacted)
- 21 (Redacted)?
- 22 PRESIDING JUDGE FREMR: [11:48:37] Mr Gosnell, I will not allow this question.
- 23 It's just speculative. It's not for the witness to know.
- 24 MR GOSNELL: [11:48:46]
- 25 Q. Madam Witness, did you after -- or while you were in the bush (Redacted)

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 during the (Redacted) following that because you've told us that you went to the

3 bush for (Redacted), did you stay in contact with (Redacted)

4 (Redacted)? Did you speak with her from time to time?

5 A. [11:49:24] Yes.

6 Q. [11:49:26] And how frequently did you see her?

7 A. [11:49:45] When I arrived, I saw her and I left again. (Redacted)

8 (Redacted). We didn't see each other often.

9 Q. [11:50:00] (Redacted)

10 (Redacted)

11 (Redacted); is that correctly understood?

12 A. [11:50:33] when I was in the bush, I didn't see anyone.

13 Q. [11:50:45] Do you know whether (Redacted) continued to have contacts with

14 (Redacted) during the period that you were in the bush?

15 A. [11:51:12] I couldn't know that. We were far away.

16 Q. [11:51:21] (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted).

20 A. [11:52:04] (Redacted).

21 Q. [11:52:04] (Redacted)

22 (Redacted)?

23 A. [11:52:40] I don't know the reason.

24 MR GOSNELL: [11:52:50] May we have (Redacted), please. It's tab (Redacted).

25 And if we could just look at this front page for a moment, it says, (Interpretation)

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)."
- 8 (Redacted)
- 9 (Redacted)?
- 10 A. [12:04:22] (Redacted)
- 11 (Redacted).
- 12 Q. [12:04:30] (Redacted)?
- 13 A. [12:05:00] (Redacted)
- 14 (Redacted)
- 15 (Redacted).
- 16 Q. [12:05:22] And did you discuss anything about what you were doing?
- 17 A. [12:05:44] No, no. We did not talk about that.
- 18 Q. [12:05:47] (Redacted)
- 19 (Redacted)
- 20 (Redacted)?
- 21 A. [12:06:26] (Redacted)
- 22 (Redacted).
- 23 Q. [12:06] (Redacted)
- 24 (Redacted)?
- 25 A. [12:07:22] (Redacted).

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 1 Q. [12:07:23] (Redacted)
- 2 (Redacted)?
- 3 A. [12:07:56] (Redacted).
- 4 Q. [12:07:56] (Redacted)
- 5 (Redacted)
- 6 (Redacted):
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)?
- 13 A. [12:09:17] (Redacted)
- 14 (Redacted)
- 15 (Redacted).
- 16 Q. [12:09:44] Some people would say (Redacted)
- 17 (Redacted), that it would be something that anyone would know with precision.
- 18 And I'm just seeking from you -- from your perspective, from your perspective, why
- 19 it would be that you do not recall the exact date.
- 20 PRESIDING JUDGE FREMR: [12:10:08] Mr Gosnell, asked and answered. That is
- 21 more argumentative. Please move on.
- 22 MR GOSNELL: [12:10:27]
- 23 Q. In the absence of a document showing your (Redacted) --
- 24 A. [12:10:32] Well, you know that I didn't go very far in my school education, but
- 25 if a document is provided to help me, then I might be able to recall. But I was

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 saying that I did not maintain the exact date.

2 PRESIDING JUDGE FREMR: [12:11:00] Madam Witness, you probably haven't heard
3 that, but I, in fact, did not allow this question so there's no need to answer that. So
4 forget about that.

5 Mr Gosnell, please proceed.

6 MR GOSNELL: [12:11:18]

7 Q. (Redacted)

8 (Redacted)

9 (Redacted)?

10 A. [12:11:52] (Redacted).

11 Q. [12:12:09] (Redacted)?

12 A. [12:12:16] (Redacted).

13 Q. [12:12:18] (Redacted)

14 (Redacted)

15 (Redacted)?

16 A. [12:12:45] (Redacted).

17 Q. [12:12:46] (Redacted)

18 (Redacted)?

19 A. [12:13:07] (Redacted).

20 Q. [12:13:08] (Redacted)?

21 A. [12:13:28] (Redacted).

22 Q. [12:13:31] (Redacted)

23 (Redacted)

24 (Redacted)?

25 A. [12:14:08] (Redacted).

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 1 Q. [12:14:13] (Redacted)
- 2 (Redacted)
- 3 (Redacted)?
- 4 A. [12:14:50] (Redacted).
- 5 MR GOSNELL: [12:14:52] (Redacted)
- 6 (Redacted)
- 7 (Redacted).
- 8 Q. [12:15:34] (Redacted)
- 9 MR GOSNELL: [12:15:38] (Redacted).
- 10 Q. [12:15:41] (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)?
- 16 A. [12:16:38] (Redacted).
- 17 Q. [12:16:43] (Redacted)
- 18 (Redacted)
- 19 (Redacted)?
- 20 A. [12:17:33] (Redacted).
- 21 Q. [12:17:34] (Redacted)
- 22 MR GOSNELL: [12:17:41] (Redacted)
- 23 (Redacted)
- 24 (Redacted).
- 25 PRESIDING JUDGE FREMR: [12:17:55] Ms Rabanit, any objection?

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 1 MS RABANIT: [12:17:57] No objection.
- 2 PRESIDING JUDGE FREMR: [12:17:58] All right, then.
- 3 MR GOSNELL: [12:17:59]
- 4 Q. (Redacted)
- 5 (Redacted)
- 6 (Redacted).
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)?
- 24 A. [12:20:32] (Redacted).
- 25 Q. [12:20:35] (Redacted)

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted).

23 THE INTERPRETER: [12:28:05] Message from the Swahili booth: (Redacted)

24 (Redacted)

25 (Redacted)? The Swahili booth is asking for clarification from the witness.

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 Thank you, Mr President.

2 MR GOSNELL: [12:28:25] Mr President, I personally don't need that detail so I
3 would propose just to pass to the next question, which will be my last two or three.

4 PRESIDING JUDGE FREMR: [12:28:33] All right.

5 MR GOSNELL: [12:28:34] Thank you, Mr President.

6 Q. [12:28:37] (Redacted)

7 (Redacted)?

8 A. [12:29:00] (Redacted).

9 Q. [12:29:00] (Redacted)?

10 A. [12:29:11] (Redacted).

11 MR GOSNELL: [12:29:15] Thank you very much, Madam Witness. Thank you,
12 Mr President.

13 PRESIDING JUDGE FREMR: [12:29:19] Now, Ms Rabanit, any request for any
14 redirect?

15 MS RABANIT: [12:29:24] There is no request for redirect, Mr President, but we
16 thought that maybe the witness should be reminded that the fact that she testified as
17 well as the fact that other people testify should remain confidential, it's not known to
18 the public.

19 PRESIDING JUDGE FREMR: [12:29:39] I will do it at the end of the testimony
20 because I at least would like to put one question to the witness. So you don't have
21 any request for redirect?

22 MS RABANIT: [12:29:52] No redirect. Thank you, Mr President.

23 PRESIDING JUDGE FREMR: [12:29:55] All right.

24 Madam Witness, probably just one question, but we will see from my part. This
25 concerns (Redacted). You mentioned that there were also war in your area in the

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 past. Do you have any knowledge whether (Redacted) had something to do
2 with that war?

3 THE WITNESS: [12:30:19] (Interpretation) Yes.

4 PRESIDING JUDGE FREMR: [12:30:37] Could you be even briefly more specific, so
5 what (Redacted) had to do with this war.

6 THE WITNESS: [12:30:49] (Interpretation) She was abducted.

7 PRESIDING JUDGE FREMR: [12:31:11] By whom?

8 THE WITNESS: [12:31:11] (Interpretation) Soldiers.

9 PRESIDING JUDGE FREMR: [12:31:25] And do you know what soldiers, what army,
10 or what armed group?

11 THE WITNESS: [12:31:30] (Interpretation) UPC troops.

12 PRESIDING JUDGE FREMR: [12:31:48] And what happened then after she had been
13 kidnapped?

14 THE WITNESS: [12:32:24] (Interpretation) These are things that I heard, but which I
15 didn't see with my own eyes.

16 PRESIDING JUDGE FREMR: [12:32:28] All right. That's fair that you're saying that.
17 And you heard it again from what source or from what person?

18 THE WITNESS: [12:32:34] (Interpretation) (Redacted).

19 PRESIDING JUDGE FREMR: [12:32:55] So not from (Redacted) herself?

20 THE WITNESS: [12:32:59] (Interpretation) (Redacted).

21 PRESIDING JUDGE FREMR: [12:33:19] And did (Redacted) say anything about that
22 to you?

23 THE WITNESS: [12:33:24] (Interpretation) She didn't tell me everything. She told
24 me a bit about it.

25 PRESIDING JUDGE FREMR: [12:33:44] Just probably to finish my questioning on

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 that. So do you have any knowledge what happened then when she was abducted,
2 what the UPC did with her?

3 THE WITNESS: [12:34:04] (Interpretation) According to what I heard, she was beaten
4 to the point that she lost consciousness. She was taken to the hospital. She was
5 living at the hospital with one of her friends. And that's how she told me that she'd
6 suffered, how she'd suffered.

7 PRESIDING JUDGE FREMR: [12:34:41] And do you have any knowledge whether
8 (Redacted) also was involved in any fight during the war?

9 THE INTERPRETER: [12:35:23] I think the French interpreter has left the microphone
10 on; as such, it's not possible for the Swahili booth to interpret.

11 PRESIDING JUDGE FREMR: [12:35:33] Sorry, Madam, because of some technical
12 problem, I would like to ask you if you could kindly repeat your last answer because
13 the interpreters haven't captured your last answer. So please kindly repeat it.

14 THE WITNESS: [12:35:47] (Interpretation) This is my last answer. She's the person
15 who should explain the way in which she fought. I can't give further explanations
16 on that point.

17 PRESIDING JUDGE FREMR: [12:36:20] All right, Madam Witness, it's fair. As I
18 already instructed you, if you don't have any exact knowledge of something, it's
19 better to say, "I don't know about that more details," and that's fine with the Court.
20 Now I don't have any further questions to Madam Witness. Do my colleagues?
21 Judge Ozaki? Judge Chung? No. All right.

22 So, Madam Witness, it concludes your testimony. I would like to thank you on
23 behalf of this Chamber. Because I can imagine that even if you testified for a
24 relatively short time, it's not an easy experience. And I believe that your testimony
25 will assist us in our effort to find the truth in this case. So thank you very much and

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 we wish you all the best.

2 And now we can cut the connection with -- sorry, sorry. One important thing.

3 Sorry, I forgot.

4 Madam Witness, please we would like to ask you, or we would rather order you,

5 please do not discuss the fact that you testified for the ICC, (Redacted)

6 (Redacted) because there is some risk that it could mean for them some danger.

7 So to make it brief and clear, please keep secret anything about your

8 (Redacted) contacts with the ICC.

9 Is it understandable?

10 THE WITNESS: [12:38:16] (Interpretation) Yes, I know.

11 PRESIDING JUDGE FREMR: [12:38:24] I thank you for that. And then we can really

12 cut the connection with the field, and I will briefly proceed with one procedural

13 issue.

14 (The witness stands down)

15 PRESIDING JUDGE FREMR: [12:38:45] Before we adjourn today's hearing, the

16 Chamber would like to deliver an oral decision with respect to one of the three

17 witnesses for whom the Prosecution requested protective measures in filing number

18 1686, and I will refer to this as the request. The present decision concerns Witness

19 P-0005. For this witness, the Prosecution requests in-court protective measures

20 pursuant to Rule 87 of the Rules in the form of face and voice distortion during

21 testimony and the use of a pseudonym. The Defence opposes the request in filing

22 number 1703. As a general matter, the Defence submits that the request should be

23 denied because of the late disclosure of four documents which refer to Mr Ntaganda,

24 in relation to the witness' security concerns and which, it submits, are therefore

25 material to the Defence preparation.

1 In relation to the protective measures requested for P-0005, the Defence
2 submits that they should be rejected on the basis that an objective basis for
3 such measures has not been established. (Redacted)
4 (Redacted)
5 (Redacted),
6 in the alternative, the information should be disclosed to the Defence or
7 expressly disregarded by the Chamber.
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted).
13 As a preliminary matter, the Chamber notes that out of the four documents referred
14 to by the Defence as having been disclosed late, only one document relates to P-0005.
15 This document does not include any reference to Mr Ntaganda and was requested to
16 be reclassified as confidential on the Prosecution's own initiative.
17 (Redacted)
18 (Redacted)
19 (Redacted) orders the Prosecution to file a lesser redacted confidential version of the
20 request in which redactions in this paragraph shall be limited to information that
21 would reveal (Redacted)
22 (Redacted).
23 Turning to the protective measures requested for P-0005, the Chamber recalls that in
24 assessing whether there exists an objectively justifiable risk, it has previously held
25 that the general security situation in the region may be a relevant consideration in

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

1 respect of specific witnesses. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted).

7 The Chamber also notes the Defence argument that the witness' wish to be granted

8 protective measures is not based on any threats received by the witness or any

9 objective foundation for his fears, noting that the only documentation provided in

10 support of the requested measures for this witness is either not contemporaneous or

11 not specially tailored to this witness.

12 The Chamber indeed finds that, like a number of previous symptom requests, the

13 request was poorly substantiated by the Prosecution. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted).

1 In light of the above, the Chamber is satisfied that there exists an objectively
2 justifiable risk with respect to the security and well-being of Witness P-0005 and his
3 family, warranting the protection of his identity from the public. The Chamber
4 further finds that the in-court protective measures sought do not unduly infringe
5 upon the rights of the accused, given that the Defence will be able to see the witness
6 give evidence at trial and hear his voice without distortion via the video link.
7 Accordingly, and pursuant to Rule 87 of the Rules, the Chamber grants the measures
8 of use of a pseudonym for the purposes of the trial and voice and face distortion
9 during testimony for Witness P-0005.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted). The Chamber will also grant breaks during the testimony should
14 this be necessary.

15 Finally, the Chamber orders the parties to file public redacted versions of their
16 submissions within three weeks of issuance of this decision, and the Prosecution to
17 additionally file a lesser redacted confidential version of the request in line with the
18 aforementioned instructions and prior to the start of the cross-examination of the
19 witness.

20 This concludes the Chamber's ruling.

21 So if there are not further requests for the floor - I don't see any such a request - it
22 means that we exhausted the agenda for today, and we are going to continue
23 tomorrow and we have also a bit special schedule for tomorrow, since we have
24 Witness P-0005. And because of circumstances which are known to parties and
25 participants, the schedule for tomorrow is to start at 1.30. We will have one session

Trial Hearing
DRC-OTP-P-0773

(Private Session)

ICC-01/04-02/06

- 1 for one hour, which means from 1.30 to 2.30, and then after break, the second session
- 2 will be from 3 to 4. So that is for the moment.
- 3 Now court is adjourned.
- 4 (The hearing ends in private session at 12.49 p.m.)
- 5 RECLASSIFICATION REPORT
- 6 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 7 the public reclassified and lesser redacted version of this transcript is filed in the
- 8 case.