

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 3
8 Tuesday, 29 November 2016
9 (The hearing starts in open session at 9.33 a.m.)
10 THE COURT USHER: [9:33:37] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:34:07] Good morning, everybody. Court officer,
14 please call the case.
15 THE COURT OFFICER: [9:34:12] Thank you, 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 We are in open session.
19 PRESIDING JUDGE FREMR: [9:34:28] Thank you, court officer.
20 Now appearances, and you can limit as usual to changes compared to yesterday.
21 Prosecution.
22 MS LUPING: [9:34:36] Good morning, Mr President, good morning, your Honours,
23 there are no changes in appearances for the Prosecution today.
24 PRESIDING JUDGE FREMR: [9:34:41] Thank you, Ms Luping. Defence.
25 MR GOSNELL: [9:34:44] Good morning, Mr President, no changes for the Defence.

1 PRESIDING JUDGE FREMR: [9:34:47] Thank you, Mr Gosnell.

2 Legal Representatives of Victims.

3 MS PELLET: [9:34:53] (Interpretation) Thank you, your Honour. Mohamed Abdou
4 has joined the team for child soldiers.

5 MR SUPRUN: [9:35:03] (Interpretation) Good morning, your Honour, your Honours.
6 No change for the victims of attacks today.

7 PRESIDING JUDGE FREMR: [9:35:08] Thank you, Ms Pellet.

8 Thank you, Mr Suprun.

9 Before we approach to the rest of cross-examination of our witness, the Chamber is
10 going to deliver its preliminary oral ruling on Prosecution's Rule 68(3) request for
11 witness P-2, and we can start in open session.

12 It's preliminary ruling on the Prosecution's request in filing of 14 November 2016,
13 with number 1631, including the 22 November addendum in filing number 1644,
14 seeking the admission of witness P-2's prior recorded testimony under Rule 68(3).

15 The Defence responded on 25 November 2016 in filing number 1654, opposing certain
16 aspects of the request.

17 The Chamber will first rule on the Prosecution's request under Regulation 35 to vary
18 the time limit for the filing of the request. The Defence opposes the Regulation 35
19 request, arguing that Witness P-2 should not testify prior to 12 December 2016.

20 Pursuant to paragraph 41 of the Decision on the Conduct of Proceedings, a request
21 under Rule 68(3) must be filed "no later than four weeks before the relevant witness is
22 scheduled to testify."

23 It's unclear to the Chamber how the Prosecution calculated 28 October 2016 as being
24 the applicable deadline. Instead, the Chamber considers that the request would
25 have been due on or about 2 November 2016.

1 However, as this is also the day upon which the updated schedule of witnesses was
2 provided by way of e-mail at 1900, the Chamber finds that the Prosecution was not in
3 a position to seek the extension prior to the deadline for filing of the request.

4 The Chamber does not consider that the period of uncertainty regarding the witness's
5 availability to testify during this evidentiary block justified delaying filing the
6 request.

7 Nonetheless, having regard to the changes in schedule, the Chamber is persuaded
8 that good cause exists to vary the deadline, including in the interests of justice, as
9 referred to in Regulation 29. In so finding, the Chamber has also had specific regard
10 to potential prejudice which may be caused, but notes that the Defence was aware
11 that P-2 would testify in this evidentiary block from at least 7 October 2016. It
12 further notes that the Defence had been aware since 29 July 2016 that the Prosecution
13 intended to make a Rule 68(3) application in respect of the witness. The Chamber
14 additionally notes that the late filing has not impacted the time period permitted for
15 the Defence to respond to the request.

16 The Chamber, however, notes that such request should be brought as early as
17 possible. In this particular case, the late filing of the request left the Chamber with a
18 maximum of just three working days between receipt of all submissions and the
19 anticipated start of the testimony, during which it has had to render this decision on a
20 relatively large volume of material.

21 Turning to the substance of the Rule 68(3) request, the Chamber incorporates by
22 reference the applicable law as recently set out in its decision bearing filing
23 number 1640.

24 Noting the Defence objections to certain parts of the material tendered, the Chamber
25 hereby renders a preliminary ruling on the request. In line with usual practice, a

1 formal decision on admission will be rendered when the witness appears before the

2 Chamber and will depend upon whether the relevant requirements are satisfied.

3 And now I shall go into private session.

4 Court officer, please.

5 (Private session at 9.40 a.m.)

6 THE COURT OFFICER: [9:40:24] We are in private session, Mr President.

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1 (Open session at 9.51 a.m.)

2 THE COURT OFFICER: [9:52:14] We are in open session, Mr President.

3 PRESIDING JUDGE FREMR: [9:52:16] Thank you, court officer.

4 In summary, therefore, in relation to the statement at annex I, the Chamber will
5 consider for introduction under Rule 68(3) only: first, paragraphs 11 to 16, together
6 with the related commentary in annex K to the request; second, paragraph 47; and
7 third, paragraphs 101, 102, 105 and 106, together with the photographs which are
8 explained in those four paragraphs, being photographs 3 to 6 as identified in annex A
9 to the request.

10 In relation to the 108 identified paragraphs in the 2013 statement at annex O to the
11 request, the Chamber considers their introduction under Rule 68(3) appropriate,
12 having had regard to the fact that: first, the statement is signed by the witness and
13 declared to have been given voluntarily, to be true to the best of the witness's
14 knowledge, and to have been given in the knowledge it may be used in legal
15 proceedings before the Court; second, it's in a language which the witness
16 understands, but that an interpreter was also present and provided assistance as
17 needed; third, its introduction in this manner would significantly contribute to the
18 expeditious conduct of the proceedings; fourth, the witness will be available to be
19 questioned; and fifth, the Defence does not object to its admission pursuant to Rule
20 68(3).

21 The Chamber will also consider for admission excerpt 8 as identified in annex A of
22 the request, noting that is used and explained in the 2013 statement, that the Defence
23 does not object to its admission, and that certain parts of the excerpt have already
24 been admitted by the Chamber through previous witnesses.

25 In respect of document 1, that is DRC-OTP-0090-0428, the Chamber considers that the

1 document has been adequately explained in the witness's 2013 statement and will
2 therefore consider it for admission as an associated document.

3 In relation to the Defence request that the Chamber defer its ruling on admission of
4 the excerpts until after cross-examination in order to avoid duplicates, the Chamber
5 does not consider this to be necessary. Consist with the practice in this case, the
6 relevant portions admitted will be clearly identified in the eCourt metadata.

7 In respect of the transcripts and translations pertaining to the excerpts being
8 considered for admission, as per its previous practice, the Chamber will mark these
9 items for identification pending the resolution of any disagreement between the
10 parties as to their accuracy.

11 In respect of the document annexed to the Prosecution addendum, the Chamber
12 considers that although the Defence was notified of the existence of this document by
13 way of Registry filing number 874, to which the document was attached as an ex parte
14 annex, not available to the Defence, the fact that it was only disclosed to the Defence
15 in November 2016 constitutes a violation of the Prosecution's disclosure obligations.

16 The Chamber therefore warns the Prosecution that it must ensure that such
17 documents related to a witness are disclosed at the earliest opportunity. Having
18 regard, however, to the discrete nature of the corrections and clarifications made, the
19 Chamber does not consider undue prejudice to have arisen in this instance.

20 Finally, in terms of timing, the Chamber authorises the Prosecution to conduct an
21 examination of a maximum of two and a half hours with this witness, to include both
22 the formalities associated with Rule 68(3) and any supplemental examination.

23 In so doing, the Chamber has had regard to the fact that the request is only being
24 partially granted.

25 As for the Defence cross-examination, the Chamber notes that 10 hours are requested

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1 to examine this witness. In the Chamber's view, the estimate appears excessive at
2 this time and not sufficiently reasoned. The prior recorded testimony being
3 considered for admission is, in fact, relatively concise, although the Chamber
4 acknowledges that there is a large volume of additional material associated with this
5 witness.

6 The Chamber considers that the Defence should complete its examination in six hours
7 and a motivated request will be required for any extension of time.

8 As usual, the parties are further directed to file public redacted versions of filings
9 1631 and 1654 within two weeks of today.

10 This concludes the Chamber's ruling.

11 And now, court officer, we can bring Mr Witness into the courtroom.

12 (The witness enters the courtroom)

13 PRESIDING JUDGE FREMR: [9:59:49] Good morning, Mr Witness. Welcome back.

14 WITNESS: DRC-OTP-P-0300 (On former oath)

15 (The witness speaks French)

16 THE WITNESS: [9:59:56] (Interpretation) Thank you.

17 PRESIDING JUDGE FREMR: [9:59:58] And, Mr Witness, before we continue with
18 your cross-examination conducted by Defence, it's my duty to provide you with two
19 reminders: The first one, that you are still under oath, which means that you have to
20 speak the truth and nothing but the truth; and the second one, that this Court is
21 governed by the principle of fair trial which also means that both parties should be
22 treated equally, and it also has impact on your testimony and means that you should
23 respond to questions put to you by Defence in the same way like questions put to you
24 by Prosecution.

25 So even if you, as yesterday, may not be satisfied with some questions, simply you

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1 should -- you have to answer them in the same way, patiently, clearly, how you did it
2 towards to questions put to you by Prosecution.

3 Do you understand that, Mr Witness?

4 THE WITNESS: [10:01:16] (Interpretation) Yes.

5 PRESIDING JUDGE FREMR: [10:01:19] I thank you for that.

6 And now I am giving the floor to Mr Gosnell.

7 Mr Gosnell, do you want to proceed in the regime of open or private session?

8 MR GOSNELL: [10:01:30] Private session, please, Mr President.

9 PRESIDING JUDGE FREMR: [10:01:33] Understandable.

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

11 (Private session at 10.01 a.m.)

12 THE COURT OFFICER: [10:01:49] We are in private session, Mr President.

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17 (Recess taken at 10.22 a.m.)
18 (Upon resuming in open session at 10.34 a.m.)
19 THE COURT USHER: [10:34:40] All rise.
20 Please be seated.
21 PRESIDING JUDGE FREMR: [10:35:06] First, for the record, we broke for ten
22 minutes, approximately, since Mr Witness was feeling unwell.
23 Now, Mr Witness, do you -- are you feeling again okay to continue with your
24 testimony?
25 THE WITNESS: [10:35:29] (Interpretation) Yes, we can continue.

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1 PRESIDING JUDGE FREMR: [10:35:33] Thank you. So now we will have to move
2 again into private session.

3 (Private session at 10.35 a.m.)

4 THE COURT OFFICER: [10:35:56] We are in private session, Mr President.

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12 (Open session at 11.02 a.m.)

13 THE COURT OFFICER: [11:02:41] We are back in open session, Mr President.

14 PRESIDING JUDGE FREMR: [11:02:43] Thank you, court officer.

15 So we will now take our regular break and we will reconvene at 11.30. And before

16 doing that, I also got information that so far, Mr Gosnell, you have used 1 hour 22

17 minutes, so I personally find it premature to ask you whether you are going to

18 maintain your request for additional time, unless you would like to make some

19 indication. It's up to you.

20 MR GOSNELL: [11:03:10] Mr President, I don't think I would need all of what I had

21 asked for in the notice, but I think I would need a little bit of additional time. Very,

22 very difficult to say exactly how much right now, but I think, optimistically, it could

23 only be an additional half hour, if your Honours would indulge that.

24 PRESIDING JUDGE FREMR: [11:03:32] All right, so we can decide on that at the

25 end of next session because it will be still before the end of time allotted originally to

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1 you.

2 So now we break, and we will resume half past 11.

3 THE COURT USHER: [11:03:46] All rise.

4 (Recess taken at 11:03 a.m.)

5 (Upon resuming in open session at 11.33 a.m.)

6 THE COURT USHER: [11:33:17] All rise.

7 Please be seated.

8 PRESIDING JUDGE FREMR: [11:33:49] We will continue in cross-examination of
9 our witness conducted by the Defence, by Mr Gosnell. The sad news for the public
10 in our gallery is that it is most likely this part of testimony will be conducted in the
11 regime of private session. Just to give you explanation, this witness is protected
12 witness and he was given guarantee that his identity will not be revealed during the
13 testimony. So as soon there is a risk that question that will be put to him could
14 reveal his identity, then we have to move into private session.

15 So at the beginning I am asking Mr Gosnell, who will be putting these questions,
16 should we move into private session?

17 MR GOSNELL: [11:34:50] Mr President, I have two, at least two short topics that
18 I can cover in public session.

19 PRESIDING JUDGE FREMR: [11:34:57] Very well. Appreciated. So please
20 proceed, Mr Gosnell.

21 MR GOSNELL: [11:35:04] Thank you, Mr President.

22 Q. [11:35:05] And, Mr Witness, just to say that please do not in any way in response
23 to my questions mention anything that could reveal your identity.

24 You were speaking yesterday about the attack on Mongbwalu that occurred in 2002.

25 Am I correct in understanding that during that attack you had already returned to the

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1 place where you lived in 2003 - and do not mention that town - but the town that

2 you are --

3 MR GOSNELL: Well, perhaps, Mr President, we really should go into private

4 session.

5 PRESIDING JUDGE FREMR: [11:35:51] Fully understandable. Otherwise it will

6 complicate your questioning too much.

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

8 (Private session at 11.36 a.m.)

9 THE COURT OFFICER: [11:36:05] We are in private session, Mr President.

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14 (Recess taken at 1.03 p.m.)

15 (Upon resuming in open session at 2.32 p.m.)

16 THE COURT USHER: [14:32:15] All rise.

17 Please be seated.

18 PRESIDING JUDGE FREMR: [14:32:35] Good afternoon, everybody. We will

19 directly continue with the last part of cross-examination of our witness. Defence still

20 has in total 46 minutes to conclude its cross-examination.

21 Ms Luping, just for the sake of planning, do you envisage any need for redirect?

22 MS LUPING: [14:33:20] At this stage I have one question, your Honours. Yes.

23 PRESIDING JUDGE FREMR: [14:33:25] Thank you, Ms Luping.

24 All right, and I guess, Mr Gosnell, we will have to move into private session again for

25 the rest.

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1 MR GOSNELL: [14:33:34] Probably so, Mr President.

2 PRESIDING JUDGE FREMR: [14:33:36] All right. Court officer, let's move into
3 private session.

4 (Private session at 2.33 p.m.)

5 THE COURT OFFICER: [14:33:45] We're in private session, Mr President.

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10 (Open session at 3.22 p.m.)

11 THE COURT OFFICER: [15:22:53] We are in open session, Mr President.

12 PRESIDING JUDGE FREMR: [15:23:01] Thank you, court officer.

13 Mr Witness, it concludes your testimony. I can understand that it was a bit

14 complicated experience because it was two days with us, a lot of questions, even

15 touching some emotional part of your life, but we really appreciate that you

16 underwent such a long journey and that you testified.

17 You testified about facts that I believe will be very relevant for us

18 and I hope that it will assist us in our effort to find

19 the truth in this case.

20 So on behalf of this Chamber I would like to thank you and we wish you safe journey

21 home.

22 And now please assist Mr Witness --

23 THE WITNESS: [15:24:01] (Interpretation) Thank you.

24 PRESIDING JUDGE FREMR: [15:24:04] -- out of the courtroom.

25 (The witness is excused)

1 PRESIDING JUDGE FREMR: [15:24:17] And now we will break for 10 minutes in
2 order to allow parties to prepare for the next witness.

3 THE COURT OFFICER: [15:24:26] All rise.

4 (Recess taken at 3.24 p.m.)

5 (Upon resuming in open session at 3.35 p.m.)

6 THE COURT USHER: [15:35:50] All rise.

7 Please be seated.

8 PRESIDING JUDGE FREMR: [15:36:15] Good afternoon again.

9 Since I see few new faces, we will update composition of the teams, starting with
10 Prosecution, please.

11 MS SOLANO: [15:36:35] Good afternoon, your Honours. Ms Luping, Ms Hubert
12 and Ms Sacchi are no longer with the Prosecution. Ms Samson and Ms Yirgou
13 remain and they have been joined by Marion Rabanit, associate trial lawyer; and
14 myself, Julieta Solano, trial lawyer.

15 PRESIDING JUDGE FREMR: [15:36:54] Thank you, Ms Solano.
16 Defence.

17 MS GRANDON: [15:36:59] (Interpretation) Good afternoon, your Honours.
18 Good afternoon, Mr President. For Defence, Mr Christopher Gosnell is still here,
19 Erik Cookson-Montin, and Maria-Kim Vasconi, and myself Chloé Grandon.

20 PRESIDING JUDGE FREMR: [15:37:15] Thank you, Ms Grandon.
21 And Legal Representatives of Victims, as concerns child soldiers, no change. As
22 concerns the victims.

23 MR SUPRUN: [15:37:26] (Interpretation) Anne Grabowski has left the courtroom,
24 Mr President. That's all I wanted to point out.

25 PRESIDING JUDGE FREMR: [15:37:32] Thank you, Mr Suprun.

1 First of all, the Chamber was informed that Ms Grandon would like to address the
2 Chamber.

3 Ms Grandon, you have the floor. And we are in open session.

4 MS GRANDON: [15:37:47] (Interpretation) Thank you, Mr President. Yes,
5 indeed, I wanted to address the Court before this witness begins the testimony,
6 because this morning at 11.15 we received from the Prosecutor 12 new school records
7 or reports relating to Witness 883, who is about to testify. Twelve school records
8 totalling 228 pages. And I imagine that at some point in the examination-in-chief my
9 colleague of the Prosecution would use those documents. She has informed me that
10 she will not be doing so before tomorrow.

11 Now, given the time frame in which the document was disclosed to us, I would like to
12 inform you that, as a matter of principle, the Defence will be objecting to the use of
13 that document by the OTP because of the late disclosure.

14 And before you rule on this matter, I believe that it might be important for my
15 learned colleague opposite to explain to the Court and to the Defence why those
16 documents came in so late in the proceedings, given that a record had been obtained
17 for this witness by the OTP in February 2015, some two years ago, about. In fact,
18 I had received two emails from the OTP, the first on -- or, rather, in October,
19 31 October, informing me that the Prosecutor (Speaks English) -- seeking to obtain a
20 further copy of registre matricule relating to P-883 (Interpretation) referring to
21 number *DRC-2096-0110, a document that we already had.

22 THE INTERPRETER: [15:39:55] And counsel reads out the number which
23 interpreters did not get.

24 MS GRANDON: [15:40:01] (Interpretation) So we had that email. And another
25 email came in on 21 November 2016 on the same topic, as follows: (Speaks English)

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1 We sought to obtain a photocopy of the registre matricule relating to P-883 previously
2 disclosed to you under *ERN DRC-OTP-2082.

3 PRESIDING JUDGE FREMR: [15:40:18] Ms Grandon, slow down a lot because a
4 lot of numbers. Please make it easier to interpreters. Thank you.

5 MS GRANDON: [15:40:28] Should I start again?

6 PRESIDING JUDGE FREMR: [15:40:29] It would be better I say.

7 MS GRANDON: [15:40:32] Where?

8 PRESIDING JUDGE FREMR: [15:40:34] (Microphone not activated)

9 MS GRANDON: [15:40:37] (Interpretation) The second email referred to
10 document *DRC-OTP- 2082-0368 and what was explained is that DRC-OTP-2097-0540
11 was a more recent document of DRC-OTP-2082 --

12 THE INTERPRETER: [15:41:02] Mr President, counsel again read out the numbers
13 too quickly.

14 PRESIDING JUDGE FREMR: [15:41:08] Please, the third attempt with numbers we
15 still have not succeeded. The number, I mean the number was not, ERN number
16 was not captured. So please.

17 MS GRANDON: [15:41:25] (Interpretation) The second email indicated that
18 DRC-OTP-2097, which is 0540, is a more recent document of another DRC,
19 DRC-OTP-2082-0368.

20 PRESIDING JUDGE FREMR: [15:41:48] It's my fault. I didn't activate my mike.
21 So please. Now we have it. No, the second email referred to a document, but we
22 still don't have number of the first document, ERN number.

23 MS GRANDON: [15:42:01] (Interpretation) 2097-0540.

24 PRESIDING JUDGE FREMR: [15:42:08] Now it's fine.

25 MS GRANDON: [15:42:10] (Interpretation) All I'm saying, Mr President, your

1 Honours, is that I understand from these emails that the Prosecutor intended to
2 disclose a better copy of the documents that we had previously received recently.
3 We didn't expect that at 11.15 today 12 new school documents and registers of 228
4 pages will be disclosed to us just when the witness is about to start his testimony. It
5 is for this reason that Defence, as a matter of principle, will be objecting to the use of
6 those documents.

7 I want to reassure you, however, that from 11.15 we have analysed, we began to
8 analyse the documents, but of course the analysis has not been concluded so far.

9 My colleague explained in the email that has just been sent, including an attachment
10 with an updated list of documents, including that document, that indeed it had been
11 indicated in those documents which pages would be relevant. That is why I believe
12 you would understand that in the context of the analysis that I will conduct, it is not
13 possible to restrict myself only to the pages that have been pointed out by the Office
14 of the Prosecutor. I need to analyse the entire document.

15 Now if the Chamber were to authorise the OTP to use those documents there will be
16 two consequences flowing from such an authorisation. First, it will be possible for
17 me to need a little more time to analyse the documents because I prepared my
18 cross-examination on the basis of documents that were available to me as at yesterday
19 evening. That would be one of the consequences.

20 The second consequence will be that the addition of these 228 pages oblige me to ask
21 a few more questions to the witness, and it is therefore going to be possible for me to
22 need more time to conduct my cross-examination. I therefore wish to apply that you
23 take these submissions into consideration when deciding whether or not to authorise
24 the OTP to use the documents.

25 Thank you.

1 PRESIDING JUDGE FREMR: [15:44:33] Now, OTP.

2 MS SOLANO: [15:44:35] Thank you, your Honours.

3 I want to first of all explain why these documents were disclosed only this morning.

4 I want to contextualise what the records are and then I'll address my colleague's
5 mention of a potential request for a delay.

6 Your Honour, the Prosecution made a request on 23 December 2014 for records from
7 the school to which the next witness 883 attended. In response to that request, we
8 obtained certain school records. We made a subsequent request in July, on
9 29 July 2016 for more detailed records. And having obtained some further records
10 pursuant to our July 2016 request, we realise that one of the documents that was
11 provided to us was a poor copy because the relevant entry was not completely legible
12 on the relevant page and so we engaged the Congolese authorities once again to try to
13 obtain a new copy of that document.

14 In the process of doing that we were, I'll be very honest, your Honours, ourselves
15 surprised yesterday to receive not 12 but 11 school records, that have been shared
16 with the Defence this morning. They are records that we had requested as early as
17 December 2014 but, given that the DRC authorities had not transmitted them to us to
18 date, we had a come to believe that they simply were not available.

19 And that is the reason. That's the explanation, your Honours. We ourselves have
20 been surprised and we have -- and there are two -- transmitted to the Defence as
21 quickly as we could.

22 To move on to my next point, what we shared with the Defence this morning, your
23 Honours, are 12 records; 11 of them are school records of one sort or another. The
24 twelfth document is a cover letter, if you like, from the Congolese inspector who
25 collected the documents and in that record he gives an overview of what the records

1 show in relation to each year of schooling for Witness 883, that is whether there are
2 records showing her in school or not be in school.

3 Now I don't wish to challenge or contest the Defence's right to peruse the records
4 themselves, but I do want to point out that they have some help, if I can put it so
5 simply, in the form of the overview document provided by the Congolese inspector in
6 the form of the fact that the DRC authorities appear to have placed a small asterisk
7 next to wherever the name of the witness appears on the relevant school records.

8 And finally, in the form of our indication to them preliminarily this morning, and
9 more comprehensively this afternoon, of the exact pages where the witness appears
10 on the relevant records.

11 So coming to my last point, your Honours, as to the Defence's indication that they
12 may request a delay to examine these records thoroughly we would, in principle, not
13 oppose a brief delay if your Honours feel that it's necessary. But I just want to
14 emphasise that we've done our best to show to the Defence where these documents
15 are relevant. We've essentially shared our -- that part of our analysis so as it is today.

16 Thank you, your Honours.

17 PRESIDING JUDGE FREMR: [15:48:18] You know, I would like to listen -- you just
18 said that you would be fine with some delay. I would like to listen to you, to hear
19 from you some constructive proposal how to approach because you obviously put
20 Defence in difficulties. My question would be, you know, roughly, it's more than
21 200 pages. Do you really, really mean to use all of them with the witness.

22 MS SOLANO: [15:48:50] Your Honour, we've put on our list nine of the records as
23 records that we may show to the witness and for which -- for each one of them, we
24 provided the exact page and the exact entry, which is to mean the exact line where her
25 name appears. There is, from having perused the records over the course of the day,

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1 there is no variation in the way in which her name appears, that I could perceive,
2 anyway. Many of the records contain subtitles, for example, such as your Honours
3 have seen in relation to other witnesses. For example, they indicate, they're clearly
4 labelled as to what the record is: Is it a palmarès, is it le registre de matricule?
5 What school year is it for?

6 THE COURT OFFICER: [15:49:39] I'm sorry to interrupt. I just wanted to remind
7 the parties that we're in open session.

8 PRESIDING JUDGE FREMR: [15:49:45] Yes, let's move into private session. It
9 will be for sure safer.

10 MS SOLANO: [15:49:52] If it helps, your Honour, I don't need to mention any
11 particulars relating to the witness herself.

12 PRESIDING JUDGE FREMR: [15:49:58] All right. So if you are sure about that,
13 we can remain in open. Please proceed.

14 MS SOLANO: [15:50:03] Thank you, your Honour.

15 So that's what I can say, your Honours. If I can give you an example just to illustrate,
16 in relation to record 21 on our updated list of evidence, we've indicated that Witness
17 883 is mentioned in page 615 at number 10, in page 619 at number 4.

18 PRESIDING JUDGE FREMR: [15:50:27] Sorry to interrupt you, it's exactly what
19 interested me. So how many pages are in fact highlighted in your list that you
20 would like to consider as most relevant?

21 MS SOLANO: [15:50:44] Your Honour, I believe they are no more than 25 pages,
22 and those include pages where the witness is mentioned as well as pages where three
23 individuals, whose names appear to correspond to the teachers that she remembers,
24 are mentioned.

25 PRESIDING JUDGE FREMR: [15:51:12] Because you gave example, I would also

1 like to give example: In the past, for example, you presented school reports from
2 third till eighth class which I would say sometimes the Chamber wouldn't find
3 necessary. If you have, for example, just three consecutive years would be enough.
4 So you should also take into account this.

5 Now, Ms Grandon, you have heard Ms Solano's position. Do you want to amend
6 your position if they would just focus on those most relevant pages?

7 MS GRANDON: [15:51:53] (Interpretation) I want to confirm that after the
8 hearing this evening, I will continue to analyse the documents, but I want to say that
9 I cannot just stop at looking at the pages pointed out by learned colleague because I
10 need to look at the entire document which is built in a certain pattern, according to
11 certain logic, and therefore I need to be able to analyse them and to understand those
12 aspects.

13 I do not think -- I'm not saying that I'm going to ask for extra time, but I'm simply
14 saying that we will do our level best to make sure that it doesn't come to that.

15 The only other possible consequences that if I were to find an interest in using the
16 documents in my cross-examination, it will be documents that come in addition to the
17 material which I already have my possession and therefore, for that reason, I might
18 ask for more time to conduct the cross-examination.

19 PRESIDING JUDGE FREMR: [15:52:44] And again, to be open, we also saw
20 Prosecution presented school reports containing 400 names. Again, I can imagine
21 that really one page would be just enough. Even for your study, I believe that if we
22 just verify that this concrete year and then on page 25 is the name important, it should
23 be enough. So I appreciate your diligence to get acquainted with the whole material,
24 but still believe that in a case like this, it would be impossible to study the core of the
25 documents.

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1 Give us a second. I will consult my colleagues.

2 (Trial Chamber confers)

3 PRESIDING JUDGE FREMR: [15:54:10] So after silent deliberation in the
4 courtroom, our ruling is following:

5 Since we accept the circumstances presented by Prosecution, that it was in fact can't
6 be probably blamed but still they put Defence to some difficulties, we would like to
7 avoid any delay and that is why we order Prosecution, first of all, not to deal with
8 those documents today, so just postpone examination and the use of those documents
9 till tomorrow. And moreover, which is more important, just to limit -- we are
10 limiting you to use only 20 pages from all those 200-something pages. And you will
11 have to specify those pages just after this session, to allow Defence to focus on those
12 20 pages. You are not allowed to use any further pages except of those 20.

13 And before we invite witness into the courtroom, allow me just to reiterate in terms of
14 timing. The Chamber has already indicated that the examination-in-chief of this
15 witness should be completed in 4 and a half hours and the Defence, we said, will have
16 equal time, but in the light of Ms Grandon's submission, we will remain open and we
17 can't exclude that in the light of the newest circumstances, we will grant some
18 additional time to Defence.

19 And further, the Chamber has taken note of the Defence notice of objections to the use
20 or admission of certain documents and it will address any such objections if and
21 when they arise, which means I am not now referring to the last objection brought by
22 the Defence.

23 Now we can turn for the last 30 minutes to the scheduled testimony. So court usher,
24 please bring Madam Witness into the courtroom.

25 (The witness enters the courtroom)

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1 PRESIDING JUDGE FREMR: [15:58:11] Good afternoon, Madam Witness. Can
2 you hear me?

3 WITNESS: DRC-OTP-P-0883

4 (The witness speaks Lingala)

5 THE WITNESS: [15:58:29] (Interpretation) Yes.

6 PRESIDING JUDGE FREMR: [15:58:31] Madam Witness, on behalf of this
7 Chamber, I would like to welcome you to the courtroom. You are called to testify in
8 the case against Mr Bosco Ntaganda and you will be soon asked questions both by the
9 Judges and lawyers in the courtroom.

10 In this connection I would like to guide you -- I would like to guide you as follows:

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

17 Do you understand all this, Madam Witness?

18 THE WITNESS: [15:59:47] (Interpretation) Yes.

19 PRESIDING JUDGE FREMR: [15:59:50] Madam Witness, protective measures are
20 put in place to ensure that your identity is not revealed to the public. It means that
21 the public cannot see your face and that your voice is being disguised so that the
22 public cannot recognize it. We will refer to you as "Madam Witness" only and
23 ensure that your name and any other information that risks revealing who you are is
24 not broadcast to the public. Therefore, whenever you need to describe anything that
25 might reveal your identity, we will do so in private session so that no one outside the

1 courtroom can hear your answer.

2 Do you understand that, Madam Witness?

3 THE WITNESS: [16:00:48] (Interpretation) I understand.

4 PRESIDING JUDGE FREMR: [16:00:52] Good. Madam Witness, now you will be
5 provided with the text of solemn undertaking to tell the truth and -- Madam Witness
6 will be able to read it? Because I was ready to -- no, it's up to Madam Witness to
7 read it.

8 Are you able, Madam Witness, to read it out, the solemn undertaking?

9 THE WITNESS: [16:01:22] (Interpretation) I don't know how to read.

10 PRESIDING JUDGE FREMR: [16:01:38] So give us a second. I will read it out, but
11 I will first should be provided with the exact text and you will then repeat it after me.
12 Thank you.

13 So, Madam Witness, please repeat after me: I solemnly declare.

14 THE WITNESS: [16:02:01] (Interpretation) I solemnly declare.

15 PRESIDING JUDGE FREMR: [16:02:04] That I will speak the truth.

16 THE WITNESS: [16:02:10] (Interpretation) That I will speak the truth.

17 PRESIDING JUDGE FREMR: [16:02:15] The whole truth.

18 THE WITNESS: [16:02:21] (Interpretation) The whole truth.

19 PRESIDING JUDGE FREMR: [16:02:26] And nothing but the truth.

20 THE WITNESS: [16:02:30] (Interpretation) And nothing but the truth.

21 PRESIDING JUDGE FREMR: [16:02:33] Very well, Madam Witness. It means that
22 now you are under oath, so you need to be aware that it's an offence within the
23 jurisdiction of this Court to give false testimony. Do you understand that?

24 THE WITNESS: [16:02:55] (Interpretation) I understand.

25 PRESIDING JUDGE FREMR: [16:02:58] Fine. And finally a few practical matters

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1 you should have in mind when giving your testimony.

2 It's important to speak into the microphone, to speak clearly and to speak at a slow
3 pace to allow the interpreters to translate everything.

4 You should only start speaking when the person asking you the question has finished.

5 And when a question is asked, please do not respond immediately, but rather, count
6 in your ahead to three - one, two, three - and only then give your answer because this
7 pause between the question and your answer is essential for us to properly translate
8 and record what you are saying.

9 If you have any questions during your testimony, do not hesitate to let us know by
10 raising your hand. We will then give you the opportunity to speak.

11 Have you understood all that, Madam Witness?

12 THE WITNESS: [16:04:20] (Interpretation) I've understood.

13 PRESIDING JUDGE FREMR: [16:04:24] Very well, Madam Witness. And now we
14 will start with your testimony and it will be started, commenced by Prosecution,
15 concretely by Ms Solano.

16 Ms Solano, the floor is yours.

17 MS SOLANO: [16:04:40] Thank you, your Honour.

18 QUESTIONED BY MS SOLANO: [16:04:42]

19 Q. [16:04:44] Good afternoon, madam. Can you hear me?

20 A. [16:04:49] Good evening.

21 Q. [16:04:51] We have met before. My name is Julieta Solano and I represent the
22 Office of the Prosecutor. I will be asking you questions today and tomorrow. If
23 you don't understand my questions, please ask me to clarify and I will happily do so.

24 MS SOLANO: [16:05:11] Your Honour, may we move to private session, please.

25 PRESIDING JUDGE FREMR: [16:05:15] Certainly.

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

2 (Private session at 4.05 p.m.) *(Reclassified partially in public)

3 THE COURT OFFICER: [16:05:29] We're in private session, Mr President.

4 PRESIDING JUDGE FREMR: [16:05:31] Thank you, court officer.

5 Ms Solano, please proceed.

6 MS SOLANO: [16:05:35] Thank you, your Honour.

7 Q. [16:05:36] Madam, can you please give us your full name.

8 A. [16:05:56] The question that I would like to ask the Judges, am I being asked to
9 give my name? All my names?

10 Q. [16:06:23] Yes, madam. You are in private session and no one outside the
11 courtroom will hear you and everybody in this courtroom already knows your name,
12 but it's necessary for you to provide it yourself for the record.

13 PRESIDING JUDGE FREMR: [16:06:38] Yes, I can confirm that, Madam Witness.

14 Nobody outside the courtroom could hear those details.

15 THE WITNESS: [16:06:55] (Interpretation) Thank you. My name is (Redacted)
16 (Redacted).

17 MS SOLANO: [16:07:15]

18 Q. [16:07:15] What is your religion?

19 A. [16:07:21] (Redacted)

20 Q. [16:07:28] (Redacted)

21 A. [16:07:42] (Redacted)

22 Q. [16:07:47] (Redacted)

23 (Redacted)

24 A. [16:08:04] (Redacted)

25 PRESIDING JUDGE FREMR: (Redacted)

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1 (Redacted)

2 THE WITNESS: (Interpretation) (Redacted)

3 (Redacted)

4 MS SOLANO:

5 Q. [16:08:51] Thank you. And where were you born?

6 A. [16:09:01] (Redacted)

7 Q. [16:09:15] (Redacted)

8 A. [16:09:17] (Redacted)

9 Q. [16:09:25] Madam, and can you explain to the Judges how you know that you
10 were born on that day?

11 A. [16:09:54] Where I was born, that was at the hospital so from the hospital you
12 get a birth certificate or birth card and that's where my name was written and my date
13 of birth.

14 Q. [16:10:17] (Redacted)

15 A. [16:10:34] (Redacted)

16 (Redacted)

17 Q. [16:10:48] What is your ethnicity?

18 A. [16:11:03] (Redacted)

19 Q. [16:11:09] (Redacted)

20 (Redacted)

21 A. [16:11:24] (Redacted)

22 Q. [16:11:26] (Redacted)

23 A. [16:11:39] (Redacted)

24 Q. [16:11:45] (Redacted)

25 A. [16:11:47] (Redacted)

- 1 Q. [16:12:01] (Redacted)
- 2 (Redacted)
- 3 A. [16:12:20] (Redacted)
- 4 (Redacted)
- 5 Q. [16:12:39] Can you give us the names of your father and your mother, please?
- 6 A. [16:12:56] (Redacted)
- 7 (Redacted)
- 8 Q. [16:13:06] (Redacted)
- 9 (Redacted)
- 10 A. [16:13:27] (Redacted)
- 11 Q. [16:13:39] (Redacted)
- 12 (Redacted)
- 13 A. [16:13:52] (Redacted)
- 14 PRESIDING JUDGE FREMR: [16:14:04] Hold on, Madam Witness.
- 15 Ms Grandon.
- 16 MS GRANDON: [16:14:08] (Interpretation) Perhaps we have to be sure that the
- 17 names of the parents are correctly transcribed in the transcription. It's not the case at
- 18 the moment.
- 19 PRESIDING JUDGE FREMR: [16:14:17] Yes, I have to confirm.
- 20 Could you, Madam Witness, kindly slowly repeat the names of your parents, very
- 21 slowly just to allow our court reporters to write it down precisely. So what is the
- 22 name of your father first?
- 23 THE WITNESS: [16:14:52] (Interpretation) (Redacted)
- 24 (Redacted)
- 25 MS SOLANO: [16:15:05] Your Honour, I notice that the names are now captured in

1 the transcript, at least in the French transcript on page 108 at lines 3 and 7, so I will
2 move on.

3 PRESIDING JUDGE FREMR: [16:15:18] Fine. Please move on.

4 MS SOLANO: [16:15:21]

5 Q. [16:15:22] Madam, are your parents alive?

6 A. [16:15:37] They are no longer alive.

7 Q. [16:15:38] When did they die?

8 A. [16:15:47] My mother died at the time of the conflict.

9 Q. [16:16:03] And your father?

10 A. [16:16:13] My father when I wasn't there. When I returned, he had also died.

11 Q. [16:16:25] You said your mother died at the time of the conflict. What conflict
12 do you mean?

13 A. [16:16:50] On that day my mother was at home. I went to school. When I
14 returned it was at 12.30 or it was towards 1300 hours. When I returned I saw six
15 militia and at that time they started to call us. They took me, they took me to the
16 camp. And at that time my mother came. They followed her and killed her.

17 Q. [16:17:46] Thank you, madam. You have mentioned that there was a conflict.
18 Can you explain who was involved in this conflict, who was fighting?

19 A. [16:17:59] This was conflict between the APC and the UPC.

20 Q. [16:18:14] Do you know in which year this happened that the six militia came
21 and took you to the camp?

22 A. [16:18:34] It was in 2002.

23 Q. [16:18:38] Do you know in which month of the year 2002?

24 A. [16:18:51] I've forgotten the month. Well, the date was 14 October 2002.

25 Q. [16:19:03] And if I may ask, how is it that you remember that date?

1 A. [16:19:16] I hear the date because on that day when we left school it was the
2 commemoration day.

3 Q. [16:19:42] What was being commemorated?

4 A. [16:19:49] There was a parade.

5 THE INTERPRETER: [16:19:59] Commemoration of MPR, from the earlier answer
6 adds the interpreter.

7 MS SOLANO: [16:20:08]

8 Q. [16:20:10] Madam, and can you explain what MPR is?

9 A. [16:20:22] MPR? Mouvement populaire de la Révolution is what it stands for.

10 Q. [16:20:35] The six militia who took you, what group did they belong to?

11 A. [16:20:52] They were UPC troops.

12 Q. [16:20:58] And how did you know that they were UPC troops?

13 A. [16:21:14] I recognize them because here it was written "UPC" and here too on
14 their chest. It was written "UPC."

15 Q. [16:21:27] And can you explain where exactly you were when the six militia
16 took you?

17 A. [16:21:52] It was returning from school. When we arrived at the road which
18 goes (Redacted), it was at that time that I saw the
19 six militia who started running behind us.

20 Q. [16:22:22] Madam, tomorrow I am going to ask you many questions about
21 that -- what you have just said, but I want to come back to a different line of questions
22 right now.

23 Did you attend school as a child?

24 A. [16:22:49] I studied since I was a child until I was in sixth level and that's when
25 they came to abduct me. So since 2006.

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1 Q. [16:23:11] (Redacted)

2 A. [16:23:33] (Redacted)

3 PRESIDING JUDGE FREMR: [16:23:44] Ms Solano, I don't know how you
4 understand the previous answer, but I have some problem because Madam Witness,
5 said "I studied until I was abducted," in the previous answer she said she was
6 abducted in 2002 and now she said, "So since 2006." Could you clarify that issue?

7 MS SOLANO: [16:24:09] Of course, your Honour. I was just waiting for the
8 French transcript, but the answer is the same. I'm going to take it in steps, your
9 Honour.

10 Q. [16:24:20] Madam, you say that you were in sixth level when they came to
11 abduct you. Was that sixth level primary or sixth level secondary?

12 A. [16:24:35] Sixth primary. I was in that class from 1996 that I was at the
13 school.

14 Q. [16:24:59] How old were you when you first went to school?

15 A. [16:25:11] I was six years old.

16 Q. [16:25:15] And how old were you when you were abducted?

17 A. [16:25:31] I was 12 years old.

18 Q. [16:25:45] Had you already begun your sixth year of primary school when you
19 were abducted?

20 A. [16:26:00] Yes.

21 Q. [16:26:04] And from the time you were six years old until the time you were
22 12 years old did you go to school uninterruptedly?

23 A. [16:26:23] No, I didn't have an interruption.

24 Q. [16:26:42] After your abduction did you go back to school?

25 A. [16:27:01] (Redacted)

1 (Redacted) When they abducted me the conditions were difficult. They made us suffer.
2 They raped us. They submitted us to difficult conditions, so it wasn't possible to
3 return to school.

4 And to this day I do not have good health. Even after military service, after I
5 returned from the camp, I returned with a child, and to this day this child always asks
6 me "Where's my father?" To this day. I continue to suffer violence in my body.
7 There is atrocious suffering. These things hurt me greatly and even speaking about
8 it hurts me a great deal. Even in this suffering that I knew, I can't speak about it to
9 other people, apart from you because even as a speak to you, I don't feel well. I don't
10 feel well.

11 PRESIDING JUDGE FREMR: [16:28:46] Madam Witness, we will break for today,
12 but we will have to return to that tomorrow, but we appreciate that you are brave
13 enough to recall those said events and I believe that you understand that your
14 testimony could be very important for us.

15 So at the moment we will break. Madam Witness, can you hear me?

16 THE WITNESS: [16:29:36] (Interpretation) Yes.

17 PRESIDING JUDGE FREMR: [16:29:38] We will break now, Madam Witness. We
18 will continue tomorrow morning at 9.30. I hope that you will take some rest in the
19 meantime. And it is also my duty to remind you that in the meantime till tomorrow
20 you must not discuss your testimony with anybody else.

21 Do you understand that, Madam Witness?

22 THE WITNESS: [16:30:07] (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: [16:30:10] All right. So we will adjourn and we will
24 continue tomorrow, 9.30.

25 THE COURT USHER: [16:30:22] All rise.

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- 1 (The hearing ends in private session at 4.30 p.m.)
- 2 RECLASSIFICATION REPORT
- 3 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 4 the public reclassified and lesser redacted version of this transcript is filed in the case.