

Trial Hearing  
Witness: DRC-OTP-P-0055

(Open Session)

ICC-01/04-02/06

1 International Criminal Court  
2 Trial Chamber VI - Courtroom 2  
3 Situation: Democratic Republic of the Congo  
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06  
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung  
6 Trial Hearing  
7 Friday, 30 October 2015  
8 (The hearing starts in open session at 9.34 a.m.)  
9 THE COURT USHER: All rise.  
10 The International Criminal Court is now in session.  
11 Please be seated.  
12 PRESIDING JUDGE FREMR: Good morning, everybody.  
13 Court officer, please call the case.  
14 THE COURT OFFICER: Thank you, Mr President.  
15 The situation in the Democratic Republic of the Congo in the case of The Prosecutor  
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.  
17 We're in open session.  
18 PRESIDING JUDGE FREMR: Thank you.  
19 Parties, participants, appearances, please, starting with the Prosecution.  
20 MS SAMSON: Good morning, Mr President and your Honours. Appearing for the  
21 Prosecution are to my left, Mr Rens Van der Werf, assistant trial lawyer; and behind me,  
22 Ms Marion Rabanit, associate trial lawyer; Mr James Pace, assistant trial lawyer;  
23 Ms Selam Yirgou, case manager; and myself, Nicole Samson, senior trial lawyer.  
24 PRESIDING JUDGE FREMR: Thank you, Ms Samson.  
25 Defence now.

1 MR BOURGON: (Interpretation) Good morning, Mr President. Good morning, your  
2 Honours. And good morning to all those in the courtroom. For Bosco Ntaganda, who  
3 is present this morning, we are Elodie Victor, intern; Berta Casas Rochel, intern; William  
4 St-Michel; and myself, Stéphane Bourgon. Thank you, Mr President.

5 PRESIDING JUDGE FREMR: Thank you.

6 Legal Representative of Victims.

7 MS PELLET: (Interpretation) Thank you, Mr President. Former child soldiers are  
8 represented by myself, Sarah Pellet, counsel at the OPCV.

9 MR SUPRUN: (Interpretation) Good morning, Mr President, your Honours. Victims  
10 of the attacks are represented by myself, Dmytro Suprun, counsel at the OPCV.

11 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.

12 I further note that we now have with us a lawyer appointed pursuant to Rule 74 to assist  
13 the witness.

14 Welcome and please state your name for the record.

15 MR CIKONZA: (Interpretation) Good morning, Mr President. Good morning, your  
16 Honours. My names are Gémi Mundere Cikonza. I'm a lawyer with the Brussels Bar  
17 and I've been appointed to assist witness number 55. Thank you.

18 PRESIDING JUDGE FREMR: Thank you very much, Mr Cikonza.

19 Before the next witness can be called, we have to address some matters related to the  
20 witness testimony.

21 First there is outstanding request by the Legal Representative of the former child soldiers  
22 to question the witness. In line with the decision on the conduct of proceedings, the  
23 Chamber will rule on this request after the examination-in-chief by the Prosecution,  
24 having heard that the Legal Representative maintains her application and having heard

1 any objections from the parties.

2 In line with guidance previously provided, the Chamber does, however, note already at  
3 this stage that it will not allow any examination of the witness which would be  
4 duplicative of the testimony elicited by the Prosecution and will only permit questioning  
5 if it considers that the line of questioning is an area upon which the witness could  
6 usefully comment.

7 Then second, the Chamber has received the Defence indication of objection to certain of  
8 the documents the Prosecution may be using with this witness. The Chamber considers  
9 that these objections can be best addressed if and when they arise throughout the course  
10 of the examination-in-chief.

11 Any comment on that, Ms Samson?

12 MS SAMSON: No, your Honour. That's acceptable. Thank you.

13 PRESIDING JUDGE FREMR: Mr Bourgon?

14 MR BOURGON: Fully agree, Mr President.

15 PRESIDING JUDGE FREMR: Well, there are three more matters to address before the  
16 witness can start testifying, for which we need to briefly move into private session.

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

18 (Private session at 9.39 a.m.)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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- 21 (Closed session at 9.57 a.m.)
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- 25 (Redacted)

1 (Open session at 9.58 a.m.)

2 THE COURT OFFICER: We're in open session, Mr President.

3 PRESIDING JUDGE FREMR: Thank you, court officer.

4 Mr Witness, good morning.

5 Mr Witness you are going to testify before the International Criminal Court. On behalf  
6 of the Chamber I would like to welcome you to the courtroom. (Redacted)

7 (Redacted)

8 (Redacted) pay close attention.

9 Mr Witness, this Chamber has been established to try the case of The Prosecutor against  
10 Mr Bosco Ntaganda and you are called to testify to assist us in our search for the truth.  
11 You will be asked questions both by the Judges and lawyers in the courtroom. And in  
12 this connection, I would like to guide you in the following way:

13 Please listen carefully to those questions. It's very important that you make sure that  
14 you understand the question before you answer. If you do not understand, feel free to  
15 ask for the question to be repeated or rephrased. We want you to tell the truth and tell  
16 us only what you really saw or heard or sensed yourself. If you did not see or hear it  
17 yourself but you found out some other way, then you should explain how.

18 You may be asked about events that happened many years ago, so it's natural that you  
19 may not remember all the details. It doesn't matter. Please testify just on that which  
20 you remember. Don't guess, don't make things up, please. There is nothing wrong to  
21 say "I don't remember" or "I don't know."

22 Do you understand all this Mr Witness?

23 Sorry, I don't get any translation from English booth. Could that be repeated? I meant  
24 the answer of the witness. I haven't received any.

25 THE INTERPRETER: We're waiting for the relay, your Honour.

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1 Your Honour, the Swahili booth points out that it could be the case that the witness is  
2 connected to another channel.

3 PRESIDING JUDGE FREMR: So I see we face some technical problem because  
4 according to the Swahili booth there is some risk that the witness is connected to other  
5 than Swahili booth channel, so please court officer.

6 Mister -- then Mr Witness, maybe could you repeat your response. And maybe I would  
7 say you are maybe too far. Mr Witness, please, yeah. Could you just repeat your  
8 response whether you understood what I had told to you?

9 WITNESS: DRC-OTP-P-0055

10 (The witness speaks Swahili)

11 THE WITNESS: (Interpretation) I said that I had understood.

12 PRESIDING JUDGE FREMR: Very well. Now it seems everything is going well.  
13 Thank you, Mr Witness.

14 Now, court officer, can you please administer the solemn undertaking to tell the truth.

15 THE COURT OFFICER: Mr President, the solemn undertaking is already on the bench  
16 of the witness.

17 PRESIDING JUDGE FREMR: So in such a case, Mr Witness, could you read the solemn  
18 undertaking which is prepared for you, in front of you.

19 THE WITNESS: (Interpretation) Yes, I see it, but I would like to ask you one thing.

20 PRESIDING JUDGE FREMR: Please. Please go ahead. You may ask us.

21 THE WITNESS: (Interpretation) Your Honour, before swearing the oath, I would like  
22 to ask you -- I would like to see -- to be able to speak to you so that I -- or, can have a  
23 conversation with the Registrar. It was only afterwards that I was able to -- that I  
24 would be able to do my oath, my testimony.

25 PRESIDING JUDGE FREMR: Could you be a bit more specific what you, in fact, are

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1 requesting for because it's not clear to me.

2 Mr Cikonza, do you know what is the problem or why Mr Witness would like to  
3 postpone the -- giving his testimony and consult Mr Registrar?

4 MR CIKONZA: (Interpretation) Thank you very much, your Honour, your Honours.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Thank you very much, your Honour, your Honours.

14 PRESIDING JUDGE FREMR: Okay. We will anyway move into private session.

15 And now it depends, Mr Witness, because we -- at the moment we don't know the  
16 possible topic of our conversation, but it's fine with you to have such a talk with the  
17 presence of parties, or would you prefer to -- just to speak to the Chamber itself? Before  
18 that -- but, sorry, before that we have to move into private session, so please wait with  
19 your response, Mr Witness.

20 (Private session at 10.07 a.m.)

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22 (Redacted)

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- 23 (The hearing ends in closed session at 10.28 a.m.)