

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/04-02/06

Date: 3 March 2015

**TRIAL CHAMBER VI**

**Before:** Judge Robert Fremr, Presiding Judge  
Judge Kuniko Ozaki  
Judge Geoffrey Henderson

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO  
IN THE CASE OF  
*THE PROSECUTOR v. BOSCO NTAGANDA***

**Public**

**Order requesting additional submissions on witness preparation**

Order to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

**The Office of the Prosecutor**

Ms Fatou Bensouda  
Mr James Stewart  
Ms Nicole Samson

**Counsel for Bosco Ntaganda**

Mr Stéphane Bourgon  
Mr Luc Boutin

**Legal Representatives of Victims**

Ms Sarah Pellet  
Mr Dmytro Suprun

**Legal Representatives of Applicants**

**Unrepresented Applicants for  
Participation/Reparation**

**Unrepresented Victims**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**Trial Chamber VI** ('Chamber') of the International Criminal Court, in the case of *The Prosecutor v. Bosco Ntaganda*, having regard to Article 64(6)(f) of the Rome Statute and Regulations 24(5), 28 and 34(c) of the Regulations of the Court, issues this 'Order requesting additional submissions on witness preparation'.

1. On 18 December 2014, the Chamber directed the parties to file any request for witness preparation no later than 6 February 2015, along with a proposed witness preparation protocol.<sup>1</sup>
2. On 5 February 2015, the Prosecution filed a motion requesting witness preparation ('Prosecution Motion'), including a draft proposed protocol.<sup>2</sup> In the Prosecution Motion, the Prosecution briefly noted that it understood the defence team for Mr Ntaganda ('Defence') to have two points of disagreement in relation to the proposed protocol.<sup>3</sup>
3. On 27 February 2015, the Defence filed its response to the Prosecution Motion ('Defence Response'),<sup>4</sup> in which it sought the following three amendments to the draft protocol proposed by the Prosecution:
  - A. Restrict video recording of witness preparation sessions only to witnesses where there are risks of self-incrimination, or at the request of the opposing party 'in exceptional circumstances';
  - B. Prescribe a particular procedure and standard applicable to access by the opposing party to video recordings of witness preparation sessions; and

<sup>1</sup> Order setting deadlines for the filing of submissions on outstanding protocols, ICC-01/04-02/06-416, page 6.

<sup>2</sup> Prosecution motion regarding witness preparation, ICC-01/04-02/06-444 with Annexes 1-2.

<sup>3</sup> Prosecution Motion, ICC-01/04-02/06-444, para. 6.

<sup>4</sup> Response on Behalf of Mr Ntaganda to 'Prosecution motion regarding witness preparation', ICC-01/04-02/06-484.

C. Require that the calling party must submit a 'proofing note' to the opposing party, containing certain information specified in paragraph 33 of the Defence Response.<sup>5</sup>

4. On 2 March 2015, the Prosecution sought leave to reply to the Defence Response ('Prosecution Request'),<sup>6</sup> noting that the first issue had not been raised by the Defence at the time of discussions between the parties on the draft protocol, and consequently the Prosecution had not addressed the issue in the Prosecution Motion.<sup>7</sup>
5. The Chamber notes that it appears the Prosecution had not been aware of the first of the issues at the time of submitting the Prosecution Motion. In addition, the Chamber notes that the Prosecution Motion only contained general submissions in relation to the other two points of disagreement, having not yet seen the specific Defence proposals. The Chamber therefore considers that it would benefit from having additional submissions in relation to the three issues identified in the Defence Response, although without repeating submissions already made in the Prosecution Motion.
6. The Chamber notes that the Defence has not yet had an opportunity to respond to the Prosecution Request. However, in light of the Chamber's view that it would be assisted by additional submissions, the Chamber has found it appropriate to issue the decision at this time.

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<sup>5</sup> Defence Response, ICC-01/04-02/06-484, para. 36.

<sup>6</sup> Prosecution request to file a reply to the "Response on Behalf of Mr Ntaganda to 'Prosecution motion regarding witness preparation'", ICC-01/04-02/06-485.

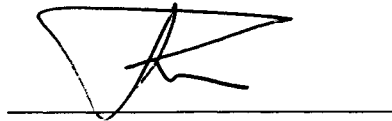
<sup>7</sup> Prosecution Request, ICC-01/04-02/06-485, paras 5-6.

**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY**

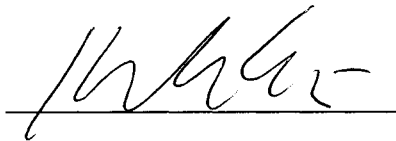
**GRANTS** the Prosecution Request; and

**INVITES** the Prosecution to file a reply to the Defence Response, addressing the issues identified at paragraph 3 above, not later than 16 March 2015.


Done in both English and French, the English version being authoritative.

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**Judge Robert Fremr, Presiding Judge**

A handwritten signature in black ink, consisting of a large, stylized 'K' followed by a horizontal line.

**Judge Kuniko Ozaki**

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**Judge Geoffrey Henderson**

Dated 3 March 2015  
At The Hague, The Netherlands