

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-02/06
Date: 17 December 2015

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Chang-ho Chung

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

Public

Order on the provision of victim application forms of dual status witnesses

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 Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Others

Trial Chamber VI ('Chamber') of the International Criminal Court, in the case of *The Prosecutor v. Bosco Ntaganda* ('Ntaganda case'), having regard to Articles 54(1)(a), 64(2) and (6) and 68(1) of the Rome Statute and Rules 76, 77 and 89 of the Rules of Procedure and Evidence, issues the following 'Order on the provision of victim application forms of dual status witnesses'.

1. In her 'Decision Establishing Principles on the Victims' Application Process',¹ the Single Judge of Pre-Trial Chamber II directed the Registry to only transmit 'Simplified Form' victim application forms, namely a 'concise and simplified one-page individual application form, containing only such information which is strictly required by law for the Chamber to determine whether an applicant satisfies the requirements set forth in [R]ule 85 of the Rules',² to the Pre-Trial Chamber and the parties.³
2. The Chamber and, in the case of admitted victims, the legal representatives of victims ('LRVs'), have since received copies of the full application forms, including supporting documents.⁴
3. It appears to the Chamber that the parties still only have access to the Simplified Forms,⁵ rather than the longer forms made available to the Chamber.⁶ It is recalled that in the 'Decision on victims' participation in trial proceedings' the Chamber noted that 'above and beyond any victim admission procedure, a distinct disclosure regime applies to witnesses. For the Prosecution, this means it must obtain and provide the Defence with all the

¹ 28 May 2013, ICC-01/04-02/06-67.

² ICC-01/04-02/06-67, para. 21.

³ ICC-01/04-02/06-67, paras 37, 42 and 44, pages 21-22.

⁴ See e.g. ICC-01/04-02/06-472-Conf-Exp, with 626 annexes. See also Decision on victims' participation in trial proceedings, ICC-01/04-02/06-449, para. 24(viii).

⁵ In respect of the three dual status witnesses who have testified so far, see, for example, DRC-OTP-2068-0051-R02, DRC-OTP-2078-2252-R01 and DRC-OTP-2062-2248-R01, respectively, which are the documents that are available on e-court and were included in the lists of documents intended to be used with those witnesses.

⁶ In respect of the same three dual status witnesses, see ICC-01/04-02/06-472-Conf-Exp-Anx319, ICC-01/04-02/06-472-Conf-Exp-Anx544 and ICC-01/04-02/06-472-Conf-Exp-Anx158 respectively.

disclosable information in a dual status witness's application, subject to any applicable disclosure restrictions'.⁷ The Chamber therefore directs the Registry, to the extent it has not already done so, to provide access to the Prosecution of all complete victim application forms for dual status witnesses, including supporting documents. The Prosecution is then to disclose copies of those forms and supporting documents, redacted as applicable, to the defence team for Mr Ntaganda, in accordance with its disclosure obligations.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

DIRECTS the Victims Participation and Reparations Section, in consultation with the LRVs, to provide the full length application forms, including supporting documents, of all dual status witnesses in the *Ntaganda* case to the Prosecution.

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



Judge Robert Fremr, Presiding Judge



Judge Kuniko Ozaki



Judge Chang-ho Chung

Dated 17 December 2015

At The Hague, The Netherlands

⁷ ICC-01/04-02/06-449, para 40.