



Original: **English**

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

Date: **26 April 2018**

**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**

**Eleventh decision on victims' participation in trial proceedings**

Decision 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 Christopher Gosnell

**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**

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

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Other**

**Trial Chamber VI** ('Chamber') of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Bosco Ntaganda*, having regard to Article 68(1) and (3) of the Rome Statute and Rules 85 and 86 of the Rules of Procedure and Evidence, and incorporating by reference the applicable law as set out in its prior decisions,<sup>1</sup> issues this 'Eleventh decision on victims' participation in trial proceedings'.

## I. Background and submissions

1. On 1 September 2015, the Chamber adopted a procedure for family members or individuals closely connected with deceased victims who wish to resume the action initiated by their deceased relatives before the Court.<sup>2</sup>
2. In accordance with this procedure, on 19 April 2018, the Registry transmitted to the Chamber nine application forms for resumption of action initiated by deceased victims ('Resumption of Actions Forms').<sup>3</sup>
3. The Chamber has not identified any substantive error in the Registry's assessment of the forms pertaining to victims a/00635/13; a/30366/15; a/00121/13; a/00371/13, a/00392/13; a/00419/13; a/00925/13; or a/01540/13.<sup>4</sup> In relation to the application pertaining to deceased victim a/00034/13, the Chamber notes the observation by the Victims Participation and Reparations Section ('VPRS') that absent proof of the applicant's mandate to represent the family of the deceased victim, the application falls short of the requirements set out in the Fourth Victims Decision and that, as a result, the VPRS is unable to make a final determination.<sup>5</sup> The Chamber also notes that the application includes a declaration from the applicant, who states that he is the

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<sup>1</sup> Decision on victims' participation in trial proceedings, 6 February 2015, ICC-01/04-02/06-449, paras 41-51; Fourth decision on victims' participation in trial proceedings, 1 September 2015, ICC-01/04-02/06-805 ('Fourth Victims Decision'), paras 8 and 13.

<sup>2</sup> Fourth Victims Decision, ICC-01/04-02/06-805, para. 13.

<sup>3</sup> Transmission of Resumption of Action Forms, ICC-01/04-02/06-2274, with confidential *ex parte* Annexes 1 to 4, available only to the Chamber and the Legal Representative of the Former Child Soldiers, and confidential *ex parte* Annexes 5 to 11, available only to the Chamber and the Legal Representative of the Victims of the Attacks.

<sup>4</sup> The Chamber recalls that the standard applied in this regard is one of 'clear and material error' (*see* Fourth Victims Decision, ICC-01/04-02/06-805, para. 13(iii)).

<sup>5</sup> ICC-01/04-02/06-2274-Conf-Exp-Anx1, pages 2-3.

uncle of the deceased victim – explaining that the rest of the family lives far away and does not have the means to travel so as to meet with him, as well as two declarations signed by witnesses attesting to the kinship between the deceased victim and the applicant.<sup>6</sup> In these circumstances, the Chamber accepts the VPRS's recommendation that the individual be authorised to continue the actions initiated by victim a/00034/13.

4. Accordingly, the Chamber considers it appropriate to authorise the nine individuals who submitted the Resumption of Actions Forms to continue the action initiated by the deceased victims before the Court. In this regard, the Chamber recalls that persons who continue to act on behalf of a deceased victim are only authorised to do so within the limits of the views and concerns expressed by the victim in his or her initial application.<sup>7</sup>

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

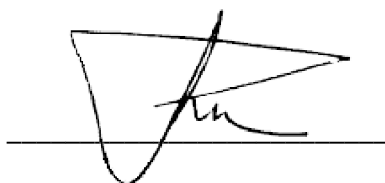
**AUTHORISES** the applicants in respect of victims a/00635/13, a/30366/15, a/00034/13, a/00121/13, a/00371/13, a/00392/13, a/00419/13, a/00925/13, and a/01540/13 to resume the action initiated before the Court by the respective deceased victims.

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<sup>6</sup> ICC-01/04-02/06-2274-Conf-Exp-Anx2.

<sup>7</sup> Fourth Victims Decision, ICC-01/04-02/06-805, para. 8.

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

A handwritten signature in black ink, consisting of a large, stylized 'F' followed by 'remr', written over a horizontal line.

**Judge Robert Fremr, Presiding Judge**

A handwritten signature in black ink, appearing to be 'K. Ozaki', written over a horizontal line.

**Judge Kuniko Ozaki**

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**Judge Chang-ho Chung**

Dated 26 April 2018

At The Hague, The Netherlands