



Original: English

**No. ICC-01/04-02/06 A A2
Date: 8 October 2019**

THE APPEALS CHAMBER

Before:
Judge Howard Morrison, Presiding
Judge Chile Eboe-Osuji
Judge Piotr Hofmański
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF THE PROSECUTOR V. BOSCO NTAGANDA

Public document

Decision on victim participation

Decision to be notified in accordance with regulation 31 of the Regulations of the Court to:

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Ms Helen Brady

Counsel for the Defence
Mr Stéphane Bourgon
Mr Christopher Gosnell

Legal Representatives of Victims
Ms Sarah Pellet
Mr Dmytro Suprun

REGISTRY

Registrar
Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeals of Mr Bosco Ntaganda and the Prosecutor against the ‘Judgment’ of Trial Chamber VI of 8 July 2019 (ICC-01/04-02/06-2359),

Renders the following

DECISION

1. In relation to the appeal initiated by Mr Ntaganda, the victims who participated in the trial proceedings in the case of *The Prosecutor v. Bosco Ntaganda* may, through their legal representatives, participate for the purpose of presenting their views and concerns in respect of their personal interests in the issues on appeal.
2. Each of the legal representatives of victims may file observations in two parts within 30 days of the notification of each of the Prosecutor’s responses to Mr Bosco Ntaganda’s appeal brief.
3. The observations referred to in the preceding paragraph shall not exceed 50 pages to be distributed between the two filings mentioned above, as the legal representatives see fit.
4. Mr Bosco Ntaganda and the Prosecutor may each file responses within 15 days of notification of each part of the victims’ observations filed in accordance with the preceding paragraphs. The responses to all of the victims’ observations shall not exceed 60 pages in total, to be distributed as the parties see fit.
5. In relation to the appeal initiated by the Prosecutor, the victims who participated in the trial proceedings in the case of *The Prosecutor v. Bosco Ntaganda* may, through their legal representatives, participate for the purpose of presenting their views and concerns in respect of their personal interests in the issues on appeal.
6. Each of the legal representatives of victims may file observations within 30 days of the notification of Mr Ntaganda’s response to the appeal brief. The victims’ observations shall not exceed 25 pages.

7. Mr Bosco Ntaganda and the Prosecutor may each file responses within 15 days of the notification of the victims' observations in accordance with the preceding paragraph. The responses to all of the victims' observations shall not exceed 35 pages in total.

REASONS

1. The purpose of the present decision is to regulate the participation of victims in the appeals brought by Mr Ntaganda and the Prosecutor against Trial Chamber VI's conviction decision of 8 July 2019 (the 'Conviction Decision').¹
2. Under article 68(3) of the Statute, '[w]here the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial'.
3. The Appeals Chamber notes that Trial Chamber VI authorised 2,129 victims to participate in the trial proceedings in the case of *The Prosecutor v. Bosco Ntaganda*.² The participating victims compose two distinct groups; each group is represented by counsel from the Office of Public Counsel for victims.³ The 283 former child soldiers are represented by Ms Sarah Pellet and the 1,846 victims of UPC/FPLC attacks are represented by Mr Dmytro Suprun.⁴
4. Pursuant to regulation 86(8) of the Regulations of the Court, '[a] decision taken by a Chamber under rule 89 shall apply throughout the proceedings in the same case, subject to the powers of the relevant Chamber in accordance with rule 91, sub-rule 1'. The Appeals Chamber notes that Mr Ntaganda was convicted on all charges brought against him⁵ and that he is appealing the entirety of the Conviction Decision, while the Prosecutor raises two grounds of appeal alleging errors that led

¹ ['Judgment'](#), ICC-01/04-02/06-2359.

² [Annex A to 'Judgment'](#), 8 July 2019, ICC-01/04-02/06-2359-AnxA, para. 1.

³ [Annex A to 'Judgment'](#), 8 July 2019, ICC-01/04-02/06-2359-AnxA, para. 16; 'Thirteenth Periodic Report on Victims in the Case and their General Situation', 6 June 2019, ICC-01/04-02/06-2353 ('Thirteenth Victim Report'), para. 3.

⁴ Thirteenth Victim Report, para. 3.

⁵ [Conviction Decision](#), pp. 535-539.

to an allegedly erroneous acquittal for the attacks on the Mongbwalu hospital and the church in Sayo.⁶ Therefore, the Appeals Chamber finds that the victims who participated in the trial proceedings may participate in the appeals against the Conviction Decision, as, in principle, their personal interests are affected by the appeals in the same way as during trial.

5. Pursuant to rule 91(1), and having regard to rules 91(2), 92(5) and (6) of the Rules of Procedure and Evidence, the Appeals Chamber determines that the victims may participate in the present appeals in the following manner: the legal representatives of victims may file observations presenting the victims' views and concerns with respect to the issues on appeal insofar as their personal interests are affected within 30 days of the notification of the responses to the appeal briefs.

6. The victims' observations on the Prosecutor's appeal shall not exceed 25 pages. Regarding Mr Ntaganda's appeal, the Appeals Chamber recalls that he has been ordered to file a part of his appeal brief concerning the first and third grounds of his appeal by 11 November 2019, with the remaining grounds of appeal to be filed by 14 January 2020.⁷ The Prosecutor will respond separately to each part of the appeal brief in accordance with time limits set by the Appeals Chamber.⁸ The victims' observations must therefore be filed in two parts within 30 days of notification of each of the Prosecutor's responses. These observations shall not exceed 50 pages to be distributed between the two filings mentioned above, as the legal representatives see fit. The different groups of victims are also encouraged to file consolidated observations to the extent that their personal interests are affected in the same way by particular aspects of the appeals and to avoid repetition in the substance of their observations.

⁶ [‘Mr Ntaganda’s Notice of Appeal against the Judgment pursuant to Article 74 of the Statute’](#), 9 September 2019, ICC-01/04-02/06-2396; [‘Prosecution notice of appeal’](#), 9 September 2019, ICC-01/04-02/06-2395.

⁷ [‘Decision on Mr Ntaganda’s request for an extension of the page and time limit for the filing of the appeal brief and related matters’](#), 20 September 2019, ICC-01/04-02/06-2415 (‘Extension Decision’); [‘Decision on Mr Ntaganda’s request for reconsideration of the decision on time and page extensions’](#), 1 October 2019, ICC-01/04-02/06-2426 (‘Second Extension Decision’).

⁸ [Extension Decision](#); Second Extension Decision.

7. Mr Ntaganda and the Prosecutor may each file consolidated responses to the victims' observations within 15 days of the notification thereof. In relation to Mr Ntaganda's appeal, the responses shall not exceed 60 pages in total. In relation to the Prosecutor's appeal, the responses shall not exceed 35 pages in total. Should the need arise to specify further the modalities of victims' participation in the pending appeals, the Appeals Chamber will give supplementary directions, either upon its own motion or upon application by the legal representatives of victims.

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



Judge Howard Morrison
Presiding

Dated this 8th day of October 2019

At The Hague, The Netherlands