



Original: English

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

Date: 22 June 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
With Confidential Annexes A and B**

**Registry's Fifth Assessment Report on Applications for Victims' Participation in
Trial Proceedings**

Source: Registry

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

The Office of the Prosecutor

Ms Fatou Bensouda, Prosecutor

Counsel for the Defence of Bosco

Ntaganda

Mr Stéphane Bourgon

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

Other

The Registrar of the International Criminal Court (the “Court”);

NOTING Pre-Trial Chamber II’s Decision on Victims’ Participation at the Confirmation of Charges Hearing and in the Related Proceedings in the case of *The Prosecutor v. Bosco Ntaganda* (the “Case”), notified on 15 January 2014 and the Second Decision on Victims’ Participation at the Confirmation of Charges Hearing and in the Related Proceedings, notified on 7 February 2014 (the “Pre-Trial Victims Decisions”) granting victim status to a total of 1,120 applicants;¹

NOTING Pre-Trial Chamber II’s Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda notified on 9 June 2014 (the “Confirmation Decision”);²

NOTING Trial Chamber VI’s (the “Chamber”) Decision on Victims’ Participation in Trial Proceedings notified on 6 February 2015 (the “First Victim Participation Decision”);³

NOTING the Chamber’s Decision on the Updated Document Containing the Charges notified on 6 February 2015 (the “Updated DCC Decision”);⁴

NOTING the Prosecution’s Submission of an Updated Document Containing the Charges pursuant to ICC-01/04-02/06-450 notified on 16 February 2015 (the “Updated DCC”);⁵

¹ ICC-01/04-02/06-211; ICC-01/04-02/06-251.

² ICC-01/04-02/06-309.

³ ICC-01/04-02/06-449.

⁴ ICC-01/04-02/06-450.

⁵ ICC-01/04-02/06-458.

NOTING the Registry's First, Second, Third and Fourth Assessment Reports on Applications for Victims' Participation in Trial Proceedings⁶ and the Registry's First, Second, Third and Fourth Transmissions to the Chamber of a total of 1,092 Applications for Participation in Trial Proceedings;⁷

NOTING the Chamber's oral ruling issued on 22 April 2015 during a status conference, ordering deadlines to be recalculated on the basis of a 7 July 2015 commencement date for trial;⁸

NOTING the Chamber's Second Decision on Victims' Participation in Trial Proceedings notified on 16 June 2015 (the "Second Victim Participation Decision");⁹

NOTING article 68 (1) and (3) of the Rome Statute, rules 89(1) and 91(1) of the Rules of Procedure and Evidence and regulations 23 *bis* and 86(8) of the Regulations of the Court;

CONSIDERING that the annexes to the present document are notified with the status "Confidential" in accordance with the instructions provided by the Chamber at paragraph 24(iv) of the First Victim Participation Decision;

CONSIDERING that the VPRS has assessed and organised all complete applications received in different groups, according to the criteria set out in paragraph 24(ii) of the First Victim Participation Decision;

⁶ ICC-01/04-02/06-479; ICC-01/04-02/06-518; ICC-01/04-02/06-540-Conf.; ICC-01/04-02/06-592.

⁷ ICC-01/04-02/06-472; ICC-01/04-02/06-514; ICC-01/04-02/06-538; ICC-01/04-02/06-594.

⁸ ICC-01/04-02/06-T-19-ENG.

⁹ ICC-01/04-02/06-650.

CONSIDERING that on 22 June 2015, the Registry transmitted 1,127 complete applications for participation in the proceedings in original version in its Fifth Transmission to the Chamber that include 1,079 applicants who clearly qualify as victims (“Group A Applications”) and 48 applicants who clearly do not qualify as victims (“Group B Applications”);

CONSIDERING that the present report constitutes the final report on complete applications received in the Case;

TRANSMITS to the Chamber, parties and participants the Registry’s fifth assessment report on victims’ applications for participation in trial proceedings.

Introduction

1. In its first four transmissions, the Registry transmitted the applications of 1,030 applicants that it has assessed as clearly qualifying as victims (Group A), 22 applicants who clearly do not qualify as victims (Group B) and 40 applications in relation to which the Registry could not make a clear determination (Group C). In the present and final report, the Registry has assessed a further 1,079 applicants as falling within Group A and 48 applicants as falling within Group B.¹⁰ These applications have been transmitted to the Chamber and the parties in accordance with paragraphs 24(iv) and (v) of the First Victim Participation Decision.
2. The present report includes a brief overview of how the Registry conducted its assessments in each of the two categories. Annex A comprises a list of the applications falling within Group A, and Annex B comprises a further subdivided list of applications falling within Group B in accordance with footnote 37 of the First Victim Participation Decision.

¹⁰ This brings the total number filed by the Registry to 2,149 applications in Group A (now including the 40 filed under Group C) and 70 applications in Group B.

Details on the Assessment Criteria and List of Applications Falling within Group A

3. Applying the criteria established in Section III(B) of the First Victim Participation Decision and further clarified in paragraphs 20-27 of the Second Victim Participation Decision, the Registry has continued to conduct a *prima facie* assessment of the applications received and considers that an additional 1,079 applications clearly fall within the scope of the Case.¹¹ In conducting its assessment, the Registry confirms that each of the applicants falling within Group A has *prima facie*:
 - (i) Established his or her identity as a natural person;¹²
 - (ii) Has suffered harm; and
 - (iii) The suffered harm is a result of an incident falling within the parameters of the confirmed charges.¹³
4. In relation to point (iii), the Registry notes that each of the 1,079 applications has been assessed as falling within the territorial, temporal and subject matter jurisdiction of this Case as set out in the Confirmation Decision and as clarified by the Chamber's Updated DCC Decision and Second Victim Participation Decision as well as the Prosecutor's subsequent Updated DCC. Of the 1,079 applications, 156 pertain to child soldiers while the remaining 923 applications pertain to the attacks on the Banyali-Kilo or Walendu-Ndjatsi *collectivités*.

¹¹ First Victim Participation Decision, para. 30.

¹² The Registry has applied the "flexible approach" endorsed by the Chamber in paragraph 45 of the First Participation Decision with respect to the different forms of identification documents deemed acceptable to establish the identity of natural persons for the purposes of participation in the Case. Following an email exchange with Trial Chamber VI Communications on 19 February 2015, the Registry notes that the Chamber considers the identity documents listed in paragraph 45 of the First Participation Decision as non-exhaustive and that other similar documents may be acceptable consistent with the "flexible approach" the Chamber endorsed. In particular, the Chamber's email specifically mentions as acceptable similar documents such as letters from local authorities and certificates or attestations of loss of official documents, which the Registry had informed the Chamber have been appended to some of the applications covered by the present Report.

¹³ First Victim Participation Decision, para. 43(i)(ii)(iii).

Details on the Assessment Criteria and List of Applications Falling within Group B

5. In assessing the applications received, the Registry has identified an additional 48 applicants who fail to meet the criteria established by the Chamber in Section III(B) of the First Victim Participation Decision and who in its assessment clearly do not qualify as victims in the present Case. Of these, the Registry notes that 9 applicants were assessed as having failed to demonstrate their identities or kinship (sub-group i); 4 applicants were assessed as having suffered harm outside the temporal scope of the charges (sub-group ii); 28 applicants were assessed as having suffered harm outside the geographic scope of the charges (sub-group iii) and 7 applicants were considered not to qualify as victims for other reasons (sub-group iv).¹⁴
6. A list of the 48 applications, sub-divided in accordance with footnote 37 of the First Victim Participation Decision, has been provided in Annex B of the present report.
7. The Registry notes that all complete applications received in relation to the present Case have now been assessed according to the criteria established by the Chamber and transmitted in accordance with the deadlines set out in the Chamber's First Victim Participation Decision.



 Marc Dubuisson, Director, Division of Judicial Services
per delegation of Herman von Hebel, Registrar

Dated this 22 June 2015

At The Hague, The Netherlands

¹⁴ Sub-group iv includes *inter alia* victims assessed as having been older than 15 years old at the time of the alleged period of enlistment and conscription of child soldiers.