



Original: **English**

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

Date: **24 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

**Response on behalf of Mr Ntaganda to Prosecution Request to Designate a Person
Authorised to Witness a Declaration under Rule 68(2)(b) of the Rules of Procedure
and Evidence**

Source: Defence Team of Mr Bosco Ntaganda

Document 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 the Defence

Me Stéphane Bourgon
Me Luc Boutin
Me Chloé Grandon

Legal Representatives of Victims

Ms Sarah Pellet
Mr Dmytro Suprun

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation / Reparation)**

**The Office of Public Counsel for
Victims**

**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**

Further to: (i) the *“Prosecution’s Request to Designate a Person Authorised to Witness a Declaration under Rule 68(2)(b) of the Rules of Procedure and Evidence”* filed on 17 June 2015 (“Prosecution Request”); (ii) the email sent by Trial Chamber VI (“Chamber”) on 19 June 2015 to shorten the deadline for any response to the Prosecution Request to 24 June 2015, and; (iii) the *“Registry’s Submission on the “Prosecution’s Request to Designate a Person Authorised to Witness a Declaration under Rule 68(2)(b) of the Rules of Procedure and Evidence””* (“Registry Submission”) filed on 22 June 2015, Counsel representing Mr Ntaganda (“Mr Ntaganda” or “Defence”) hereby submit this:

**Response on behalf of Mr Ntaganda to Prosecution Request to Designate a Person
Authorised to Witness a Declaration under Rule 68(2)(b) of the Rules of Procedure
and Evidence
 (“Defence Response”)**

SUBMISSIONS

1. The Prosecution seeks the designation of a person authorized to witness declarations under Rule 68(2)(b) of the Rules of Procedure and Evidence.
2. Under this rule, the Chamber may allow the introduction of previously recorded testimony of a witness who is not present before the Trial Chamber and whose prior testimony goes to proof of a matter other than the acts and conduct of the accused, provided that:
 - It is accompanied by a declaration by the testifying person that the contents of the prior recorded testimony are true and correct to the best of that person’s knowledge and belief, and;
 - The declaration itself must be witnessed by a person authorised to witness such declaration by the relevant Chamber or in accordance with the law and procedure of a State.

2. In light of these provisions, taking into consideration the Registry Submission – and having no information as to which witness the Prosecution envisages introducing the prior recorded testimony pursuant to Rule 68(2)(b) – the Defence is not in a position to make any relevant observations and does not oppose the Prosecution Request.
3. The Defence notes that however that Rule 68(2)(b) does not envisage allowing the introduction in evidence of a prior recorded “statement” as mentioned at paragraph 3 of the Prosecution Request.

RESPECTFULLY SUBMITTED ON THIS 24th DAY OF JUNE 2015

A handwritten signature in dark ink, appearing to read 'S. Bourgon'.

Me Stéphane Bourgon, Counsel for Bosco Ntaganda

The Hague, The Netherlands