

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-02/06
Date: 10 August 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 redacted version of

Decision on Prosecution request for in-court protective measures

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 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**

**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

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber VI ('Chamber') of the International Criminal Court ('Court' or 'ICC'), in the case of *The Prosecutor v. Bosco Ntaganda* ('Ntaganda case'), having regard to Articles 64(6)(e) and 68(1) and (2) of the Rome Statute ('Statute'), Rule 87 of the Rules of Procedure and Evidence and Regulation 42(1) of the Regulations of the Court ('Regulations'), issues the following 'Decision on Prosecution request for in-court protective measures'.

1. On 27 May 2015, the Office of the Prosecutor ('Prosecution') filed a motion ('Request')¹ seeking to maintain in-court protective measures previously ordered and implemented in the case of *The Prosecutor v. Thomas Lubanga Dyilo* ('Lubanga case'), including image and voice distortion, as well as the use of a pseudonym during testimony, for the following 11 witnesses: [REDACTED] ('Witnesses'). The Prosecution submits that the protective measures ordered by Trial Chamber I under Article 68 of the Statute and Rule 87 of the Rules continue to be necessary and contends that there is no need for the Chamber to revise them. In support of the Request, the Prosecution underlines the security situation of the Witnesses and further indicates that six of them are currently in the ICC Protection Programme ('ICCP').
2. On 17 June 2015, the defence team for Mr Ntaganda ('Defence') filed its response ('Response'),² whereby it indicates that it does not object to the Request.
3. The Chamber recalls that, pursuant to Regulation 42(1) of the Regulations, '[p]rotective measures once ordered in any proceedings in respect of a [...] witness shall continue to have full force and effect in relation to any other

¹ Prosecution request for in-court protective measures, ICC-01/04-02/06-609-Conf-Exp. A corrected version (ICC-01/04-02/06-609-Conf-Exp-Corr) and a confidential redacted version (ICC-01/04-02/06-609-Conf-Corr-Red) were filed on 28 May 2015. A public redacted version was filed on 5 June 2015 (ICC-01/04-02/06-609-Corr-Red2).

² Response on behalf of Mr Ntaganda to Confidential Redacted Version of "Corrected version of the 'Prosecution request for in-court protective measures', 27 May 2015, ICC-01/04-02/06-609-Conf-Exp", ICC-01/04-02/06-654.

proceedings before the Court and shall continue after proceedings have been concluded [...].

4. Consequently, in accordance with Regulation 42(1), and consistent with prior jurisprudence,³ the Chamber is of the view that the in-court protective measures ordered by Trial Chamber I in relation to the Witnesses⁴ are directly applicable to the *Ntaganda* case.
5. Accordingly, the Chamber considers that the measures of image and voice distortion and the use of a pseudonym during testimony shall remain in place for the purposes of the present proceedings for the Witnesses so as to preserve their anonymity vis-à-vis the public.

³ Request, ICC-01/04-02/06-609-Corr-Red2, para. 5 referring to *Katanga* case, 7 October 2009, ICC-01/04-01/07-1516-tENG, paras 8-9.

⁴ *The Prosecutor v. Thomas Lubanga Dyilo*, Transcript of hearing on 16 January 2009, ICC-01/04-01/06-T-104-ENG ET, page 1, line 13 to page 5, line 1; Transcript of hearing on 30 January 2009, ICC-01/04-01/06-T-113-Red2-ENG CT, page 20, line 11 to page 22, line 10; Transcript of hearing on 9 June 2009, ICC-01/04-01/06-T-188-Red2-ENG CT, page 82, line 5 to page 83, line 23; Transcript of hearing on 24 June 2009, ICC-01/04-01/06-T-198-Red2-ENG, page 58, line 16 to page 59, line 21; and Transcript of hearing on ICC-01/04-01/06-T-203-Red2-ENG, page 20, line 13 to page 22, line 8.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

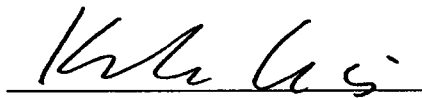
GRANTS the Request; and

FINDS, pursuant to Regulation 42(1) of the Regulations, that the protective measures ordered by Trial Chamber I in relation to the Witnesses remain in place for the purposes of the *Ntaganda* case.

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 a horizontal line and a small flourish.

Judge Robert Fremr, Presiding Judge

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

Judge Kuniko Ozaki

A handwritten signature in black ink, appearing to be 'Chang-ho Chung' with a horizontal line underneath.

Judge Chang-ho Chung

Dated 10 August 2015

At The Hague, The Netherlands