



Original: English

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

Date: 18 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
With Confidential Annex A**

**Registry's Sixth 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 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 and 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, Fourth and Fifth Assessment Reports on Applications for Victims' Participation in Trial Proceedings⁶ and the Registry's First, Second, Third, Fourth and Fifth Transmissions to the Chamber of a total of 2,218 Applications for Participation in Trial Proceedings;⁷

NOTING the Chamber's Second Decision on Victims' Participation in Trial Proceedings notified on 16 June 2015 (the "Second Victim Participation Decision") that granted participation status to 1,070 victims including 929 victims of attacks carried out by the UPC/FPLC (the "victims of the attacks") and 141 former child soldiers;⁸

NOTING the Chamber's Third Decision on Victims' Participation in Trial Proceedings notified on 2 July 2015 (the "Third Victim Participation Decision") that granted participation status to a further 1,078 victims including 922 victims of the attacks and 156 former child soldiers;⁹

NOTING the Registry's Notification on Victims Authorised to Participate notified on 9 July 2015 indicating that, following the Chamber's Third Participation Decision, a total of 2,148 victims had been authorised to participate in the Case, including 1,851 victims of the attacks and 297 former child soldiers;¹⁰

NOTING the Chamber's oral ruling issued on 3 July 2015 during a status conference, setting a new trial commencement date of 2 September 2015;¹¹

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 ; ICC-01/04-02/06-664.

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 ; ICC-01/04-02/06-665.

⁸ ICC-01/04-02/06-650.

⁹ ICC-01/04-02/06-696 ; ICC-01/04-02/06-708, fn 5.

¹⁰ ICC-01/04-02/06-708.

¹¹ ICC-01/04-02/06-T-22-CONF-ENG ET, page 5, lines 10-16 and ICC-01/04-02/06-745, para. 2.

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 Registry has received 13 additional applications for participation in the proceedings;

CONSIDERING that the annex to the present document is 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 now assessed, organised and transmitted all complete applications received in different groups, according to the criteria set out in paragraph 24(ii) and (v) of the First Victim Participation Decision;

CONSIDERING that on 18 August 2015, the Registry transmitted 13 complete applications for participation in the proceedings in original version in its Sixth Transmission to the Chamber and that, according to the Registry, all 13 applicants clearly qualify as victims (“Group A Applications”);

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

Introduction

1. In its first five transmissions, the Registry transmitted the applications of 2,108 applicants that it has assessed as clearly qualifying as victims in the case (Group A), 70 applicants who clearly do not qualify as victims in the case (Group B) and 40 applications in relation to which the Registry could not make a clear determination (Group C). The Registry notes that the Chamber has since ratified

the assessments of the Registry in the Second and Third Victim Participation Decisions resulting in 2,148 victims being granted participation status in the Case and 70 applicants being considered as falling outside the scope of the Case.

2. In the present and final report, the Registry has assessed a further 13 applicants as falling within Group A.¹² These applications have been transmitted to the Chamber in accordance with paragraphs 24(iv) and (v) of the First Victim Participation Decision.
3. The present report includes a brief overview of how the Registry conducted its assessments for the applications and Annex A comprises a list of the applications falling within Group A.

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

4. 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 13 applications clearly fall within the scope of the Case.¹³ 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;¹⁴
- (ii) Has suffered harm; and

¹² This brings the total number filed by the Registry to 2,161 applications in Group A (now including the 40 filed under Group C) and 70 applications in Group B.

¹³ First Victim Participation Decision, para. 30.

¹⁴ 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.

(iii) The suffered harm is a result of an incident falling within the parameters of the confirmed charges.¹⁵

5. In relation to point (iii), the Registry notes that each of the 13 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 13 applications, one pertains to a former child soldier while the remaining 12 applications pertain to victims of the attacks on the Walendu-Ndjatsi *collectivité*.
6. 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.


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

Dated this 18 August 2015

At The Hague, The Netherlands

¹⁵ First Victim Participation Decision, para. 43(i)(ii)(iii).