

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/04-02/06
Date: 24 December 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

Public redacted version of "Prosecution's tenth request for in-court protective measures," 23 December 2015, ICC-01/04-02/06-1071-Conf-Exp

Source: Office of the Prosecutor

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

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**Unrepresented Applicants
(Participation/Reparation)**

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**Victims Participation and Reparations
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Other

Introduction

1. The Prosecution requests in-court protective measures in the form of facial and voice distortion as well as the use of a pseudonym for Witness P-290, as provided for in rule 87 of the Rules and Procedure and Evidence.
2. The protective measures will ensure this witness is able to give evidence without fear for his personal safety or that of his family members. The measures sought appropriately balance the Accused's right to a fair and public hearing under articles 64(2) and 67(1) of the Statute, against the need to protect victims and witnesses appearing before the Court, pursuant to articles 64(2), 68(1) and 68(2) of the Statute.

Confidentiality

3. This request is classified as "Confidential, *ex parte* – only available to the Prosecution and the Victims and Witnesses Unit" pursuant to regulation 23*bis*(1) of the Regulations of the Court, as it provides information about protective measures, witness security, and locations of residence. The Prosecution will file confidential and public redacted versions.

Prosecution's Submissions

4. The Prosecution requests facial distortion, voice distortion, and the use of a pseudonym during the testimony of Prosecution Witness P-290. [Redacted].
5. [Redacted]. He will [Redacted] provide important information regarding the command structure of the UPC/FPLC, including the organization, composition, training and [Redacted] of the UPC/FPLC. [Redacted].
6. [Redacted].

7. [Redacted]. P-290 is personally known to the Accused and in his testimony, P-290 will implicate the Accused in the commission of crimes.
8. [Redacted].¹
9. P-290 is easily identifiable on the basis of his anticipated evidence, is known to the Accused, [Redacted]. Granting the use of a pseudonym alone would not suffice to protect P-290 as unprotected witnesses' images are easily accessible to a vast public on a worldwide scale, thus maximizing the risk of witnesses' identification. The dissemination of the video image and voice of P-290 would increase the risk that he could be identified. This necessitates the use of a pseudonym in combination with face and voice distortion.
10. Publicly revealing his name, image, or voice would reveal his cooperation with the Prosecution and would expose him and his family to increased risk, potentially requiring the implementation of intrusive protection measures such as relocation. In-court protective measures of face and voice distortion as well as a pseudonym would mitigate this increased risk.
11. The Chamber has granted the requested protective measures for similarly placed insider witnesses such as P-901² and P-768, [Redacted].³
12. The Chamber has found reasonable grounds to believe that the Accused and his associates have interfered with Prosecution witnesses, particularly insiders prepared to provide unique and valuable testimony.⁴ [Redacted].⁵
13. Implementing the requested protective measures during trial will likely obviate the need for additional and more intrusive protective measures to be applied

¹ [REDACTED].

² ICC-01/04-02/06-828-Conf.

³ [REDACTED].

⁴ ICC-01/04-02/06-785-Red, para. 55.

⁵ [REDACTED].

upon the completion of P-290's testimony. The Chamber has previously found that protective measures of voice and face distortion, as well as the use of a pseudonym does not unfairly prejudice the rights of the Accused as he has been provided with the name and identifying information of this witness; he will remain anonymous to the public only.⁶

Request

14. The Prosecution requests that the Chamber grant in-court protective measures to Prosecution Witness P-290 in the form of facial distortion, voice distortion and the use of a pseudonym during his testimony.



Fatou Bensouda,
Prosecutor

Dated this 24th day of December 2015
At The Hague, the Netherlands

⁶ ICC-01/04-02/06-905-Conf, para. 8.