



Original: **English**

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

Date: **17 March 2016**

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 “Response on behalf of Mr Ntaganda to ‘Prosecution’s Request to Hear Expert Witness P-0933’s Testimony via Video-link’”, 15 March 2016, ICC-01/04-02/06-1209-Conf

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 William St-Michel

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

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Further to the confidential version of the “*Prosecution’s Request to Hear Expert Witness P-0933’s Testimony via Video-link*” submitted by the Office of the Prosecutor (“Prosecution”) on 9 March 2016 (“Prosecution Request”),¹ and Trial Chamber VI (“Chamber”)’s order shortening the deadline for any response to the Prosecution Request to 15 March 2016,² Counsel representing Mr Ntaganda (“Defence”) hereby submit this:

Response on behalf of Mr Ntaganda to “Prosecution’s Request to Hear Expert Witness P-0933’s Testimony via Video-link”

“Defence Response”

1. The Prosecution requests that the Chamber: (i) permit Witness P-0933 to testify *via* video-link due to [REDACTED] that prevents him from travelling to The Hague to give testimony; and (ii) modify the fourth evidentiary block’s hearing schedule so as to hear the testimony of Witness P-0933 from 18 April to 21 April 2016 in four, two-hour blocks conducted during ‘exceptional’ evening sittings from 17 h to 19 h and to schedule Witness P-0892 in the two morning sessions over this period.³
2. Considering Witness P-0933’s [REDACTED] as well as the nature of the evidence he is expected to provide, the Defence does not object to his testimony being heard *via* video-link.
3. Moreover, bearing in mind that the Defence had taken issue with the intention expressed by the Prosecution – at the time it foresaw that it would be impossible for Witness P-0933 to testify in the present proceedings – to admit his report into evidence *and* seek an additional expert’s testimony on

¹ ICC-01/04-02/06-1202-Conf.

² Email from a Legal Officer of the Chamber to the parties and participants, 10 March 2016, 15:01.

³ Prosecution Request, paras.1 and 16.

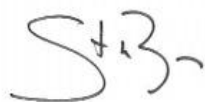
the same subject-matter,⁴ the Defence takes note of the Prosecution's submission that allowing to hear Witness P-0933's *via* video-link would enable the Prosecution to call the expert it intended to call from the outset, without the need to seek to add a new expert to its list of witnesses.⁵

4. Furthermore, with a view to facilitating the expeditious conduct of the proceedings, the Defence does not oppose the Prosecution's proposed amendments to the hearing schedule of the fourth evidentiary block in order to accommodate the testimony of Witness P-0933 *via* video-link. Provided that the testimony of Witness P-0892 is indeed limited to the two morning sessions, the Defence notes that the proposed amendments would allow for sufficient time to prepare for the testimony of Witness P-0933 during evening sessions.

CONFIDENTIALITY

5. Pursuant to Regulations 23*bis* (1) and (2) of the Regulations of the Court, this Defence Response is classified as confidential, as it responds to a filing bearing the same classification. The Defence notes that the Prosecution has undertaken to file a public redacted version of its Request.⁶ The Defence will submit a public redacted version of its Response once the Prosecution files a public redacted version of its Request.

RESPECTFULLY SUBMITTED ON THIS 17TH DAY OF MARCH 2016



Me Stéphane Bourgon, Counsel for Bosco Ntaganda

The Hague, The Netherlands

⁴ "Reply on behalf of Mr Ntaganda to 'Prosecution's response to 'Supplementary submission on behalf of Mr Ntaganda in relation to proposed Expert witnesses' ICC-01/04-02/06-1032-Conf'", 8 December 2015, ICC-01/04-02/06-1046-Conf, paras.20-21.

⁵ Prosecution Request, para.14.

⁶ Prosecution Request, para.3.