

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



Original: English

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

Date: 4 April 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***

**Confidential**

**Request by the Common Legal Representative of the Victims of the Attacks for  
authorisation to question Expert Witness P-0933**

**Source:** Office of Public Counsel for Victims

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

**The Office of the Prosecutor**

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Mr James Stewart

Ms Nicole Samson

**Counsel for the Defence**

Mr Stéphane Bourgon

Mr Luc Boutin

**Legal Representatives of the Victims**

Ms Sarah Pellet

Mr Mohamed Abdou

**Legal Representatives of the Applicants**

Mr Dmytro Suprun

Ms Anne Grabowski

**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**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. INTRODUCTION

1. The Common Legal Representative of the Victims of the Attacks (the “Legal Representative”) represents a large number of victims who, as a result of the events that give rise to the present case, have been exposed to traumatic events and continue to suffer the consequences thereof. The Legal Representative therefore respectfully requests the Chamber’s authorisation to put a limited number of questions to Expert Witness P-0933, who is an expert in forensic psychology and called to testify, *inter alia*, on the psychological definition and theories of traumas, traumatic events, associated psychosocial impact, as well as post-traumatic stress disorder (“PTSD”).

## II. PROCEDURAL BACKGROUND

2. On 2 July 2015, Trial Chamber VI (the “Chamber”) issued the “Decision on the conduct of the proceedings”<sup>1</sup> wherein it, *inter alia*, set out the procedure applicable to the participation of the legal representatives of victims during the testimony of witnesses called by the Prosecution or the Defence.<sup>2</sup> In particular, the Chamber directed that “[s]hould a Legal Representative wish to put questions to a witness called by the Prosecution or the Defence, he or she shall file a motivated request no later than four days before the beginning of the witness’s examination-in-chief.”<sup>3</sup> Any such request “shall identify the specific areas that the Legal Representative wishes to explore with the witness”.<sup>4</sup> Furthermore, the Chamber specified that in his or her request “the Legal Representative shall specify [...] whether he or she intends to elicit evidence pertaining to reparations under Article 75 of the Statute.”<sup>5</sup>

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<sup>1</sup> See the “Decision on the conduct of the proceedings” (Trial Chamber VI), No. ICC-01/04-02/06-619, 2 July 2015.

<sup>2</sup> *Idem*, paras. 64-68.

<sup>3</sup> *Ibid.*, para. 64.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*, para. 67.

3. On 7 March 2016, the Prosecution submitted its updated list of forthcoming witnesses for the fourth evidentiary block commencing on 4 April 2016.<sup>6</sup> According to this schedule, P-0933 is the fourth witness to be called.<sup>7</sup>

### III. REQUEST FOR AUTHORISATION TO QUESTION THE WITNESS

4. The Prosecution intends to call Witness P-0933, who is an expert in forensic psychology, as an expert witness in these proceedings. From the material disclosed to the Legal Representative,<sup>8</sup> it is apparent that, although it is expected that the Expert Witness will explain aspects and the general phenomenon of traumatic experiences and post-traumatic stress disorder ("PTSD"), his anticipated evidence will primarily be focused on discussing the impact of traumatic experiences on human memory and the ability to retrieve the memory/recall the events giving rise to the trauma in a coherent manner. It is thus expected that the primary focus of his testimony will relate to witness credibility.

5. The Legal Representative thus submits that it is in the interests of the victims he represents that he be allowed to seize the opportunity to ask P-0933 a number of questions that relate to victim impact and thus interests of his clients. In particular, the Legal Representative wishes to address with the Expert Witness the ways in which traumas and PTSD manifest themselves, the way in which they affect the daily lives of persons suffering therefrom in both the short and long term, as well as ways to minimise the suffering of persons diagnosed with these conditions, especially in the context of victims of crimes/perpetrated traumas.

6. The information the Legal Representative intends to cover with P-0933 relates both to the victim impact, as well as to his clients' interests pursuant to article 75 of the Rome Statute in so far as it will be important to contextualise any possible claims

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<sup>6</sup> See email sent by the Prosecution to the Chamber, Defence, and Participants at 16:23 on 7 March 2016 transmitting the Prosecution's Updated Forthcoming Witness List for the Fourth Evidentiary Block.

<sup>7</sup> *Idem*.

<sup>8</sup> See No. DRC-OTP-2085-0221.

to individual or communal psychological assistance as a means of reparations if and when the need to do so arises in the present proceedings.

7. In particular, the Legal Representative respectfully requests to be granted authorisation to explore the following areas with Expert Witness P-0933:

- a. Continued exposure of victims of traumatic events to possible triggering factors/cues;
- b. Consequences of re-traumatisation/multiple traumas suffered in a short period of time;
- c. Possibility and means of assisting PTSD sufferers, including consequences of non-treatment;
- d. Consequences of non-reporting of traumatic experiences, in particular in the context of sexual violence;
- e. Impact of non-traumatised children being raised in an environment of traumatised parents or in a traumatised community;
- f. Whether traumatic events affect individuals differently if they are suffered by an entire community rather than individually;
- g. Correlation between PTSD and difficult economic living circumstances/hardship;
- h. The impact, if any, of victims of PTSD living in a continuously volatile and unstable security situation.

#### IV. CONFIDENTIALITY

8. Pursuant to regulations 23*bis*(1) and (2) of the Regulations of the Court, the present request is classified as "confidential" as it refers to Expert Witness P-0933's Report marked with the same classification.

**FOR THE FOREGOING REASONS** the Legal Representative respectfully requests the Chamber's authorisation to question Expert Witness P-0933 in relation to the matters within the areas identified in paragraph 7 above.



Dmytro Suprun  
Common Legal Representative of the Victims of the Attacks

Dated this 4<sup>th</sup> Day of April 2016  
At The Hague, The Netherlands