

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 12 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***

Public

**Request by the Common Legal Representative of the former child soldiers to
question Witness P-0933**

Source: Office of Public Counsel for Victims (CLR1)

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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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
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Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. The Common Legal Representative of the former child soldiers (the “Legal Representative”) respectfully seeks Trial Chamber VI’s (the “Chamber”) leave to question Expert Witness P-0933 in the course of his upcoming testimony. As explained *infra*, it is submitted that the questioning by the Legal Representative is appropriate and will enable an effective participation of victims in the present proceedings.

II. PROCEDURAL BACKGROUND

2. On 2 July 2015, the Chamber issued the “Decision on the conduct of the proceedings”¹ 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.² 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.”³ The Chamber further noted that any such request “shall identify the specific areas that the Legal Representative wishes to explore with the witness”.⁴ Furthermore, the Chamber specified that in her request “the Legal Representative shall specify [...] whether he or she intends to elicit evidence pertaining to reparations under Article 75 of the Statute.”⁵

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

² *Idem*, paras. 64-68.

³ *Ibid.*, para. 64.

⁴ *Ibid.*

⁵ *Ibid.*, para. 67.

III. REQUEST FOR AUTHORISATION TO QUESTION THE WITNESS

3. Witness P-0933 is an expert in forensic psychology and is expected to testify, *inter alia*, on the psychological definition and theories of trauma, traumatic events and the associated psychosocial impact, as well as post-traumatic stress disorder (“PTSD”).⁶

4. Therefore, the Legal Representative submits that it is in the interests of the victims she represents that she is allowed to question P-0933 on a number of questions related to victim impact. Moreover, it is expected that the expert’s testimony will directly cover important aspects related to reparations issues which are of direct interest to the victims pursuant to article 75 of the Rome Statute.

5. Specifically, the Legal Representative seeks the Chamber’s leave to put questions to Expert Witness P-0933 to address the following areas:⁷

- the ways in which trauma and PTSD manifest themselves;
- the way in which trauma and PTSD affect the daily lives of persons suffering therefrom both in the short and long terms;
- Whether the age of the victim when victimised is impacting on the way traumas and PTSD are unfolding;
- The specific consequences, if any, of sexual recurrent trauma;
- The consequences, if any, of raising children conceived as a consequence of an act of rape; and
- The consequences, if any, of trauma and PTSD on the short and long term memory of the victims.

⁶ See DRC-OTP-2085-0221, pp. 221-229.

⁷ Unless sufficiently covered during the Prosecution’s examination-in-chief.

6. The areas addressed *supra* directly affect the interests of the 284 victims the Legal Representative represents. Indeed all of them have suffered harm as a consequence of traumatic events. As for the former girl soldiers represented by the Legal Representative, virtually all of them alleged to have suffered from the acts of rape and/or sexual slavery while serving in the militia. Accordingly, allowing their Legal Representative to question the witness in relation to the areas identified *supra* will guarantee the effective participation of her clients in the present proceedings.

7. Furthermore, the areas identified are relevant to the interests of the victims represented. Authorising the questioning by the Legal Representative will allow the Chamber to have a better understanding of the impact of victimisation on her clients which, in turn, enhances the truth-finding function of trial proceedings. In conducting her questioning, the Legal Representative will abide by the guidelines set out in the various decisions of the Chamber, and undertakes to ask focused and non-repetitive questions. Lastly, the questions put will not cause any prejudice to the Defence, as the Defence will have the opportunity to subsequently cross-examine the witness on all matters covered during his testimony.

FOR THE FOREGOING REASONS the Legal Representative respectfully requests to be granted authorisation to question Witness P-0933 within the areas identified in paragraph 5 *supra*.



Sarah Pellet
Common Legal Representative of the former
Child soldiers

Dated this 12th Day of April 2016

At The Hague, The Netherlands