

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



Original: **English**

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

Date: **30 May 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**

**Prosecution response to the "Confidential Request on behalf of Mr Ntaganda seeking the admission into evidence of Witness P-0887's victim application form",  
ICC-01/04-02/06-1314-Conf**

**Source:** Office of the Prosecutor

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**

Mr Stéphane Bourgon  
Mr Christopher Gosnell

**Legal Representatives of the Victims**

Ms Sarah Pellet  
Mr Dmytro Suprun

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
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**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

### Prosecution's Submissions

1. Prosecution Witness P-0887 testified on 2 and 3 May 2016. On 10 May 2016, the Defence requested Trial Chamber VI ("Chamber") to admit the first five pages of Witness P-0887's victim application form<sup>1</sup> into evidence for the sole purpose of impeachment ("Defence Request").<sup>2</sup>
2. The Office of the Prosecutor ("Prosecution") notes that it is preferable and more expedient for requests regarding the admission of documents related to witnesses who appear before the Chamber to be made orally, during the relevant witnesses' testimony. Further, the Chamber's Decision on the conduct of proceedings<sup>3</sup> requires the Party seeking to submit an item into evidence other than through a witness to inquire whether the opposing Party consents or objects to the admission of the item *before* submitting an application for admission to the Chamber.<sup>4</sup> The Defence did not comply with this requirement in the instant case.
3. Nevertheless, the Prosecution does not oppose the Defence Request provided all six pages of the victim application form are admitted.<sup>5</sup> In view of the number and type of questions put to the witness by both Parties in relation to various parts of this short document, the Chamber would be assisted by being able to refer to the entirety of the document itself in order to better understand the questions and answers captured in the transcript of her testimony.

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<sup>1</sup> DRC-OTP-2090-0089.

<sup>2</sup> ICC-01/04-02/06-1314-Conf.

<sup>3</sup> ICC-01/04-02/06-619.

<sup>4</sup> ICC-01/04-02/06-619, para.53.

<sup>5</sup> The Defence states it would have no objection to the Prosecution seeking the admission into evidence of the sixth page of Witness P-0887's victim application form, *see* Defence Request, para.10.

### Confidentiality

4. This filing is classified as "Confidential" pursuant to regulation 23*bis*(2) of the Regulations of the Court in line with the classification of the Defence Request.

### Conclusion

5. For the reasons set out above, the Chamber should grant the Defence Request and admit Witness P-0887's victim application form in its entirety.



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**Fatou Bensouda**  
**Prosecutor**

Dated this 30<sup>th</sup> day of May 2016  
At The Hague, The Netherlands