

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 14 July 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 “Fourth Prosecution request for in-court protective measures”, 2 October 2015, ICC-01/04-02/06-883-Conf

Source: The 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 for
Participation/Reparation**

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**Victims Participation and Reparations
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Other

Introduction

1. The Prosecution requests in-court protective measures for Prosecution Witness P-0018 in the form of voice and face distortion and the use of a pseudonym, as provided for in rule 87 of the Rules of Procedure and Evidence. This witness will testify in the second evidence block scheduled to commence on 19 October 2015.
2. The protective measures sought will ensure this witness is able to give evidence without fear for her personal safety and security or that of her family members, and in a manner that protects her psychological well-being, dignity and privacy as provided for under article 68(1) of the Statute. 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) and 68(1) and (2) of the Statute. The measures will not unfairly prejudice the rights of the Accused as he has been provided with the name and identifying information of this witness; she will remain anonymous to the public only.

Confidentiality

3. This response is classified as "Confidential" pursuant to regulation 23*bis*(1) of the Regulations of the Court as it provides information about protective measures and witness security. The Prosecution will file a public redacted version.

Prosecution's Submissions

4. The Prosecution requests facial distortion, voice distortion and the use of a pseudonym during the testimony of Prosecution Witness P-0018. She is a civilian and a crime-base witness who will testify about the attack on the villages in the Walendu-Djatsi *collectivité* in February 2003. She is expected to provide evidence about the UPC/FPLC inviting members of the Lendu population to a

“pacification” meeting, [REDACTED]. She is expected to give evidence about her capture by the UPC/FPLC during this attack, and about seeing individuals being beaten, raped and killed. [REDACTED]. [REDACTED].

5. [REDACTED]. Most of her extended family members have no knowledge of her involvement in these proceedings, nor is her participation known to the members of her community.
6. Revealing Prosecution Witness P-0018’s identity publically would heighten the risk to her, especially to her psychological well-being and dignity. As such, in-court protective measures are necessary. Implementing the requested protective measures during trial will likely obviate the need for additional and more intrusive protective measures to be applied upon the completion of her testimony.
7. The Prosecution notes that during the familiarisation and preparation process with the witnesses who testified in the last evidentiary block, the uncertainty around whether their identity would be made public during their testimony appeared to be a source of anxiety and concern. On this basis, the Prosecution respectfully requests that, if possible, the Chamber issue its decision on the request for in-court protective measures for Prosecution Witness P-0018 prior to, or during, her witness preparation and familiarisation to permit the Prosecution to advise the witness of the status of her request in the course of this process.¹ The Prosecution anticipates that this process will commence during the week of 26-30 October 2015.

¹ In its decision on the conduct of proceedings, the Chamber stated that, where a requesting party considers there are reasons for the Chamber to rule on the request for in-court protective measures at an earlier moment (than “just prior to the commencement of the testimony of the witness concerned”), it shall provide these reasons and specify the date by which it wishes the Chamber to rule on the matter (ICC-01/04-02/06-619, para. 50 and footnote 30).

Request

8. The Prosecution requests that the Chamber grant in-court protective measures to Prosecution Witness P-0018 in the form of facial distortion, voice distortion and the use of a pseudonym during her testimony.



Fatou Bensouda
Prosecutor

Dated this 14th day of July 2016
At The Hague, The Netherlands