



Original: **English**

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

Date: **22 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 “Request on behalf of Mr Ntaganda seeking the admission into evidence of Witness P-0887’s victim application form” dated 10 May 2016, ICC-01/04-02/06-1314-Conf

Source: Defence Team of Mr Bosco Ntaganda

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

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(Participation / Reparation)**

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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Further to cross-examination of Witness P-0887 on 2 and 3 May 2016 conducted by Counsel representing Mr Ntaganda (“Defence”), the Defence hereby submits this:

**Request on behalf of Mr Ntaganda seeking the admission into evidence of
Witness P-0887’s victim application form**

“Defence Request”

1. Witness P-0887 was cross-examined by the Defence on 2 and 3 May 2016.
2. During cross-examination, the Defence raised, as a matter of credibility, the allegations put forward by Witness P-0887 to obtain the status of participating victim in these proceedings. For this purpose, the Defence questioned Witness P-0887 on certain aspects of the first five pages of her “*Demande de participation pour les victimes*” and the accompanying annexes (“Victim Application Form”).¹
3. Due to lack of time at the end of its cross-examination of Witness P-0887 – and further to the re-examination conducted by the Office of Prosecutor (“Prosecution”) and the questions put by the Judges – the Defence did not orally seek the admission into evidence of the five pages of the Victim Application Form it used with Witness P-0887. The Defence hereby seeks their admission into evidence for the purpose of impeachment.
4. At the outset, the Defence underscores that Witness P-0887 recognized the Victim Application Form as hers.²
5. Although the Defence read out most of the contents of the first five pages of the Victim Application Form to the Witness, admission into evidence of all five pages is essential to assist the Chamber in properly assessing Witness P-0887’s answers regarding the many discrepancies between her Victim

¹ DRC-OTP-2090-0089, pp.0089-0093.

² T-94-CONF-ENG, p.74, ln.23 to p.75, ln.3, referring to T-93 CONF-ENG, p.50, ln.23-25.

Application Form, the information she provided to the Prosecution in her statement³ and her testimony before the Chamber.⁴

6. The purpose of questioning Witness P-0887 on certain parts of her Victim Application Form was to highlight material inconsistencies in: (i) the “*Demande de participation pour les victimes*” itself dated [REDACTED]; (ii) her “*carte d’électeur*” issued on [REDACTED] and handed over to VPRS on [REDACTED];⁵ and (iii) a document entitled “*A qui de droit*” signed by an “*officier de l’état civil*” [REDACTED] and handed over to VPRS on the same date;⁶ on the basis of which the Defence put to the witness that she did not say the truth about [REDACTED] while filling in the Victim Application Form.
7. In such circumstances, solely admitting into evidence the excerpts read out and/or shown to Witness P-0887 would be artificial and would defeat the impeachment purpose sought to be achieved with the admission into evidence of the first five pages of the Victim Application Form.
8. The Defence further observes that the admission into evidence of the first five pages of the Victim Application Form would not be unnecessarily duplicative or inappropriately expand the evidentiary record due to its limited page count.
9. The importance of admitting into evidence the first five pages of the Victim Application Form is further highlighted by the use the Prosecution made itself of the Victim Application Form during its examination-in-chief of Witness P-0887, when the Prosecution gave the Witness the opportunity to explain certain discrepancies between her Victim Application Form and her testimony during direct-examination before the Chamber.⁷

³ Where necessary, the statement DRC-OTP-2076-0299 was put to the witness.

⁴ T-94-CONF-ENG, p.74, ln.23 to p.88, ln.17.

⁵ DRC-OTP-2090-0089, pp.0091-0092.

⁶ DRC-OTP-2090-0089, p.0093.

⁷ T-93-CONF-ENG, p.50, ln.23 to p.54, ln.10.

10. Finally, the Defence notes that the Prosecution questioned Witness P-0887 during re-direct examination on a discrete aspect of the sixth page of the Victim Application Form.⁸ Should the Prosecution wish to seek the admission into evidence of the sixth page of the Victim Application Form, the Defence would have no objection.

CONFIDENTIALITY

11. Pursuant to Regulation 23*bis* (1) of the Regulations of the Court, this Defence Request is submitted on a confidential basis, as it refers to matters raised in private session during the testimony of Witness P-0887.

RELIEF SOUGHT

In light of the above submissions, the Defence respectfully requests the Chamber to:

ADMIT into evidence the first five pages of the Victim Application Form for the sole purpose of impeachment.

RESPECTFULLY SUBMITTED ON THIS 22TH DAY OF JULY 2016



Me Stéphane Bourgon, Counsel for Bosco Ntaganda

The Hague, The Netherlands

⁸ T-94-CONF-ENG, p.98, ln.23 to p.99, ln.24.