

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-02/06
Date: 10 January 2017

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 by the Common Legal Representative of the
Victims of the Attacks for authorisation to question Witness P-0863**

Source: Office of Public Counsel for Victims (CLR2)

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 Christopher Gosnell

Legal Representatives of the Victims

Ms Sarah Pellet
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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

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”), who represents P-0863 in his capacity as participating victim [REDACTED] hereby respectfully requests to be granted leave to question witness P-0863 within the framework of his upcoming testimony before Trial Chamber VI (the “Chamber”).

II. PROCEDURAL BACKGROUND

2. On 2 June 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 Any such request “shall identify the specific areas that the Legal Representative wishes to explore with the witness”.⁴ Furthermore, the Chamber specified that “[S]hould the Legal Representative wish to show any documents or other material to the witness, he or she shall state so, identifying the material in question, in the request.”⁵ Finally, the Chamber directed that “the Legal Representative shall specify [...] whether he or she intends to elicit evidence pertaining to reparations under Article 75 of the Statute.”⁶

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

² *Idem*, paras. 64-68.

³ *Ibid.*, para. 64.

⁴ *Ibid.*

⁵ *Ibid.*, para. 68.

⁶ *Ibid.*, para. 67.

3. On 7 October 2016, the Prosecution notified its witness list for the seventh evidentiary block.⁷ The order of witnesses to be called during this block was subsequently amended.⁸ The further update of the witnesses scheduled to testify during the block was communicated on 2 November 2016, witness P-0863 having been added thereto.⁹ The final updated list, according to which P-0863 is provisionally foreseen to testify as the seventeenth witness in the block¹⁰ was notified on 24 November 2016.¹¹

4. On 15 December 2016, the Prosecution notified its witness list for the eighth evidentiary block to start on 16 January 2017 wherein witness P-0863 is scheduled to testify as the first witness.¹²

III. SUBMISSIONS

5. As the Legal Representative is mandated to represent P-0863's interests as a participating victim in the present proceedings, he wishes to ask the witness questions as to the harm the witness and his family members have suffered from during and as a result of the events in Ituri in 2002-2003, including matters pertaining to potential reparations pursuant to article 75 of the Rome Statute.

6. The evidence the Legal Representative seeks to elicit from the witness will solely relate to the harm suffered by the witness and his relatives. It will thus be confined to matters that would not ordinarily be covered by the Prosecution in its

⁷ See the Email Communication from the Prosecution to the Chamber, Defence and Legal Representatives of Victims of 7 October 2016 at 9:53.

⁸ See the Email Communications from the Prosecution to the Chamber, Defence and Legal Representatives of Victims of 14 October 2016 at 13:56,

⁹ The Prosecution removed Witnesses P-0875 and P-0908 from the list. See the Email Communications from the Prosecution to the Chamber, Defence and Legal Representatives of Victims of 2 November 2016 at 19:00.

¹⁰ The Prosecution indicated that P-863 will be called as a back-up witness and will testify only if other witnesses are unable to testify.

¹¹ See the Email Communications from the Prosecution to the Chamber, Defence and Legal Representatives of Victims of 24 November 2016 at 19:02.

¹² See the Email Communications from the Prosecution to the Chamber, Defence and Legal Representatives of Victims of 15 December 2016 at 17:49. It is mentioned that the Prosecution will make an application to call witness P-0863 via video-link.

examination-in-chief which is expected to primarily relate to the topics set out in the witness's statements.

7. Accordingly, the Legal Representative seeks the Chamber's authorisation to put questions to the witness that pertain to the following areas:

- a. Physical, psychological and emotional harm suffered by the witness and his relatives as a result of the events, including the killing of his family members;
- b. Material and economic harm suffered by the witness and his family as a result of the events;
- c. Expectations in terms of justice and reparations.

IV. CONFIDENTIALITY

8. Pursuant to regulations 23*bis*(1) and (2) of the Regulations of the Court, the present submissions are classified as "confidential" as they refer to sensitive information regarding a dual-status Prosecution witness. A public redacted version will be filed at the same time.

FOR THE FOREGOING REASONS the Legal Representative respectfully requests that the Chamber

GRANT him authorisation to question P-0863 on the topics set out in paragraph 7 above.

A handwritten signature in black ink, appearing to read 'Dmytro Suprun', with a small dot at the end.

Dmytro Suprun
Common Legal Representative of the Victims of the Attacks

Dated this 10th Day of January 2017

At The Hague, The Netherlands