

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: ICC-01/04-02/06
Date: 24 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

**Prosecution's observations on the testimony of Witness P-0551
and request for video link**

Source: Office of the Prosecutor

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

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**Victims Participation and Reparations
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I. Introduction

1. As ordered by Trial Chamber VI ("Chamber"),¹ the Prosecution submits its views regarding the possibility of hearing Witness P-0551's testimony *via* video-link and admission of his prior recorded testimony pursuant to rule 68(3) of the Rules of Procedure and Evidence ("Rules").
2. The Prosecution agrees that video-link testimony is an appropriate manner in which to hear the testimony of P-0551, and seeks the Chamber's authorisation to proceed in this manner. The Prosecution acknowledges that the Chamber has already decided that admission of Witness P-0551's prior recorded testimony pursuant to rule 68(3) of the Rules is in principle appropriate.² Accordingly, the Prosecution will seek admission of Witness P-0551's prior recorded testimony pursuant to rule 68(3) at the time of his examination-in-chief.

II. Procedural History

3. On 1 November 2016, the Prosecution sought the admission of the prior recorded testimony of Witness P-0551 under rule 68(2)(b) of the Rules and regulation 35 of the Regulations, pending submission of the required accompanying declaration ("Request").³
4. On 2 December 2016, the Prosecution submitted an accompanying declaration for P-0551,⁴ and requested the unconditional admission of P-0551's prior recorded testimony.⁵

¹ ICC-01/04-02/06-1733, p.15.

² ICC-01/04-02/06-1733, p.15.

³ ICC-01/04-02/06-1601-Conf..

⁴ ICC-01/04-02/06-1668-Conf-Anx.6.

⁵ ICC-01/04-02/06-1668-Conf-, para.45.

5. On 22 December 2016, the Defence team for Mr Ntaganda opposed the Request.
6. On 16 January 2017, the Prosecution filed an addendum to its filing of 2 December 2016 confirming that the certifying officer is duly authorised in accordance with the law and procedure of The Democratic Republic of the Congo ("DRC").⁶
7. On 19 January 2017, the Chamber rendered its decision in which it granted the Prosecution's request to add P-0551 to the Prosecution's list of witnesses. The Chamber further decided that rule 68(3) of the Rules is, in principle, appropriate for the admission of P-0551's prior recorded testimony, but deferred its final ruling regarding admissibility of his prior recorded testimony until the conditions set out in rule 68(3) of the Rules have been satisfied. The Chamber further directed the Parties and the Victims and Witnesses Unit ("VWU") to file any submissions on the possibility of hearing P-0551's testimony *via* video-link by 24 January 2017.

III. Submissions

8. The Prosecution agrees that the use of video-link for the testimony of P-0551 is appropriate for the reasons stipulated by the Chamber, namely: the nature of his expected testimony, the limited time expected to be required for his testimony, and potential logistical difficulties that the VWU might encounter at this stage.⁷ The Prosecution submits that it would also be feasible to show P-0551 various documents *via* video-link if needed during his testimony.
9. Witness P-0551 confirmed his willingness and availability to testify *via* video-link during this evidentiary block. The Prosecution and Defence jointly propose that Witness P-0551 be called to testify on 15 and/or 16 February 2017. This is the

⁶ ICC-01/04-02/06-1719-Conf, paras.3-6.

⁷ ICC-01/04-02/06-1733, para.28.

earliest date on which the Witness can travel to the video-link location and undergo witness preparation and familiarisation in advance of testimony.

10. Accordingly, the Prosecution seeks authorisation to hear the testimony of P-0551 *via* video-link pursuant to article 69(2) of the Rome Statute.

11. Witness P-0551 will require in-court protective measures and the Prosecution will make a separate application without delay.



Fatou Bensouda
Prosecutor

Dated this 24th day of January 2017

At The Hague, The Netherlands