

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-01/04-02/06
Date: 27 February 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***

Confidential

**Response on behalf of Mr Ntaganda to "Request by the Common Legal
Representative of the Victims of the Attacks for in-court protective/special
measures for victims a/01635/13, a/20018/14 and a/30286/15"**

Source: Defence Team of Mr Bosco Ntaganda

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

Me Stéphane Bourgon
Me Christopher Gosnell
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Legal Representatives of Victims

Ms Sarah Pellet
Mr Mohamed Abdou

Legal Representatives of Applicants

Mr Dmytro Suprun
Ms Anne Gabrowski

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

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Further to: (i) the *“Request by the Common Legal Representative of the Victims of the Attacks for in-court protective/special measures for victims a/01635/13, a/20018/14 and a/30286/15”* submitted by the Common Legal Representatives of Victims (“LRVs”) on 17 February 2017 (“LRVs Request”);¹ (ii) the *“Supplemental decision on matters related to the conduct of proceedings”* issued by Trial Chamber VI (“Chamber”) on 27 May 2016 (“Supplemental Decision on the Conduct of Proceedings”),² which provides that responses to all future requests for in-court protective measures are to be filed within seven days of notification of the request,³ and; (iii) the Chamber’s *“Order amending the schedule for the presentation of victims’ views and concerns”* of 22 February 2017 shortening the deadline for the Defence’s response by one day,⁴ the Defence hereby submits this:

Response on behalf of Mr Ntaganda to “Request by the Common Legal Representative of the Victims of the Attacks for in-court protective/special measures for victims a/01635/13, a/20018/14 and a/30286/15”

“Defence Response”

1. The Defence does not oppose the in-court protective measures requested for victims a/01635/13, a/20018/14 and 30286/15,⁵ and does not at this stage oppose any of the customary special measures that the VWS may recommend.⁶
2. Though the remainder of the requested measures fall within the scope of the Chamber’s discretion to govern the conduct of proceedings as and when the need arises, the Defence nevertheless emphasizes the importance of a public trial and the need to present views and concerns in open session.⁷ In this

¹ ICC-01/04-02/06-1793-Conf.

² ICC-01/04-02/06-1342.

³ Supplemental Decision on the Conduct of Proceedings, para.14.

⁴ ICC-01/04-02/06-1797.

⁵ LRV Request, paras.17-20.

⁶ LRV Request, para.23.

⁷ ICC-01/04-02/06-1780-Conf, para.53.

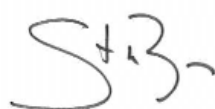
regard, the Defence disagrees with the Common Legal Representative of the Victims of the Attacks that "granting the requested protective/special measures will allow hearing the victim's statements in open session without putting them at risk and without the need to often recourse to private or closed sessions".⁸ Indeed, past cases have demonstrated that in practice granting face and voice distortion coupled with a pseudonym, lead to hear most of the witness/victim's testimonies in close session.⁹

3. Finally, the Defence recalls that the scope of victims a/01635/13, a/20018/14 and a/30286/15's presentation of views and concerns has been limited to discussing the harm suffered.¹⁰ Accordingly, the Defence will oppose any discussion going beyond the harm suffered by the victims and their relatives and the consequences of the same on their lives.

CONFIDENTIALITY

4. Pursuant to Regulations 23*bis* (1) and (2) of the Regulations of the Court, this Defence Response is classified as confidential, as it responds to a filing bearing the same classification.

RESPECTFULLY SUBMITTED ON THIS 27TH DAY OF FEBRUARY 2017



Me Stéphane Bourgon, Counsel for Bosco Ntaganda

The Hague, The Netherlands

⁸ ICC-01/04-02/06-1793-Conf, para.21

⁹ See *inter alia* testimonies of Witness P-0301, Witness P-0912, Witness P-0365, Witness P-0012, Witness P-0031, Witness P-0863, Witness P-0773, Witness P-0005, Witness P-0857, Witness P-0116.

¹⁰ ICC-01/04-02/06-1780-Conf, para.49.