

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 11 April 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
With Confidential Annex 1**

Public Redacted Version of the “Response by the Common Legal Representative of the Victims of the Attacks to the Defence Request to lift redactions applied to the victim application forms and statements of victims a/30012/15, a/30365/15 and a/00256/13”, ICC-01/04-02/06-1825-Conf, 16 March 2017

Source: Office of Public Counsel for Victims (CLR2)

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

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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

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Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
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Other

I. INTRODUCTION

1. The Common Legal Representative of the Victims of the Attacks (the “Legal Representative”) hereby submits his response to the “Expedited request on behalf of Mr Ntaganda seeking the lifting of standard redactions applied to the victim application forms and statements of Witnesses a/30012/15, a/30365/15 and a/00256/13” filed on 15 March 2017 (the “Defence Request” or “Request”).¹

II. PROCEDURAL BACKGROUND

2. On 10 February 2017, the Chamber issued its “Decision on the request by the Legal Representative of the Victims of the Attacks for leave to present evidence and victims’ views and concerns”, wherein it authorised (i) victim a/30012/15, and victims a/30365/15 and a/00256/13 (by Majority, Judge Ozaki dissenting), to present evidence, and (ii) victims a/01243/13, a/20126/14, a/30169/15, a/20018/14, a/30286/15, and a/01635/13 to present their views and concerns.² The Chamber directed the Legal Representative to disclose to the parties and the Legal Representative for former child soldiers (i) the identity of all authorised victims by 20 February 2017, and (ii) the statements and lesser redacted versions of the victim application forms of victims a/30012/15, a/30365/15, and a/00256/13 within same deadline.³

3. On 20 February 2017, the Legal Representative disclosed to the parties and participants the identity of all victims authorised to appear before it, and the

¹ See the “Expedited request on behalf of Mr Ntaganda seeking the lifting of standard redactions applied to the victim application forms and statements of Witnesses a/30012/15, a/30365/15 and a/00256/13”, No. ICC-01/04-02/06-1824-Conf, 15 March 2017 (the “Defence Request”).

² See the “Decision on the request by the Legal Representative of the Victims of the Attacks for leave to present evidence and victims’ views and concerns”, No. ICC-01/04-02/06-1780-Conf, 10 February 2017, p. 20.

³ *Idem.*

redacted versions of the statements and victim application forms of victims a/30012/15, a/30365/15, and a/00256/13, and provided notice of said disclosure.⁴

4. On 9 March 2017, the Defence requested by the way of three emails that the Legal Representative lift several redactions contained in the statements and victim application forms of victims a/30012/15, a/30365/15 and a/00256/13,⁵ and also requested for a better electronic version of page 0022 of the victim application form of a/30012/15.⁶

5. On same date, the Legal Representative submitted by the way of email a response to the Defence said request wherein he opposed the requested redactions being lifted, and sent to the Defence a better electronic version of page 0022 of the victim application form of a/30012/15.⁷

6. On 15 March 2017, the Defence submitted its Request.⁸

III. SUBMISSIONS

a. As regards victim a/30012/15

7. The Legal Representative has – in the meanwhile – managed to obtain a better electronic version of the victim’s voting card. A redacted version of the document is contained in Annex 1. In this regard, he observes that the legible copy of the victim’s voting card is contained on page 0023 of DRC-PCV-0001-0020 which was disclosed to the parties and participants on 17 February 2017.

⁴ See the “Communication by the Common Legal Representative of the Victims of the Attacks of the Disclosure of Evidence Pursuant to Trial Chamber VI’s Decision No. ICC-01/04-02/06-1780-Conf dated 10 February 2017”, No. ICC-01/04-02/06-1795-Conf, 20 February 2017, with two Confidential Annexes thereto.

⁵ See the Defence’s email communications to the Legal Representative on 9 March 2017 at 11:42, 11:45 and 11:47.

⁶ See the Defence’s email communication on 9 March 2017 at 11:42.

⁷ See the Legal Representative’s email communication to the Defence on 9 March 2017 at 18:02.

⁸ See the Defence Request, *supra* note 1.

8. The Legal Representative maintains his objection to the Defence Request to lift redactions applied to the names of the victim's [REDACTED] children. Indeed, the [REDACTED] children are minors. The [REDACTED] son is [REDACTED] years old, meaning that he was born in [REDACTED] years after the events within the charges. The other [REDACTED] children are [REDACTED] years old.

9. Accordingly, the Legal Representative submits that given the victim's children current age, their names are of no relevance to any known issue in the case and therefore the redactions applied to said information shall be on-going.

10. The Legal Representative does not maintain his objection to lift the other redactions as sought by the Defence in relation to victim a/30012/15.

b. As regards victim a/30365/15

11. The Legal Representative does not maintain his objection to lift the redactions as sought by the Defence in relation to victim a/30365/15.

c. As regards victim a/00256/15

12. The Legal Representative maintains his objection to the Defence Request to lift redactions applied to the names of his children other than those who were killed by the detonation during the events within the charges. Indeed, the victim has never mentioned neither in his statements nor victim application form that some of his children were eye-witnesses to the death of [REDACTED]. Accordingly, it is submitted the Defence's contention that "[i]t is very likely that the [REDACTED] of the Witness who were present at the time include his children who would have been eye witnesses of this event"⁹ is purely speculative and with no merit. The Defence does not demonstrate how the names of the victim's [REDACTED] children would be relevant

⁹ *Idem*, para. 13.

to any known issue in the case. Therefore, the Legal Representative submits that the redactions to said information shall be on-going.

13. The Legal Representative also maintains his objection to lift the redactions to the names of the persons who attested the identity of his children. Indeed, the information relates to an innocent third person who has not agreed to be part of the Court process and may not even be aware of it, and is at risk of being perceived as potential witness or collaborator with the Court. Accordingly, the non-disclosure of said information is necessary to protect said person's safety, dignity, privacy and well-being.¹⁰ Furthermore, insofar as the Defence failed to demonstrate the relevance of the identity of his children [REDACTED] to any known issue in the case,¹¹ it is submitted that the identity of the person who attested the identity of these children is also with no relevance to the case. Therefore, the Legal Representative submits that the redactions to said information shall be on-going.

IV. CONFIDENTIALITY

14. 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 documents marked with the same classification. Annex 1 is classified as "confidential" as it refers to a document marked with the same classification.

¹⁰ See Annex A to the "Decision on the Protocol establishing a redaction regime" (Trial Chamber VI), No. ICC-01/04/02/06-411-AnxA, 12 December 2014, paras. 24-27.

¹¹ See *supra* para. 12.

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

REJECT the Defence Request insofar it relates to:

- the names of victim a/30012/15's [REDACTED] children;
- the names of victim a/00256/13's children [REDACTED] during the events;
and
- the names of the persons who attested the identity victim a/00256/13's children [REDACTED] during the events.



Dmytro Suprun
Common Legal Representative of the Victims of the Attacks

Dated this 11th Day of April 2017

At The Hague, The Netherlands