



**Original: English**

**No. ICC-01/04-02/06 A2  
Date: 1 October 2020**

**THE APPEALS CHAMBER**

**Before:**

**Judge Howard Morrison, Presiding  
Judge Chile Eboe-Osuji  
Judge Piotr Hofmański  
Judge Luz del Carmen Ibáñez Carranza  
Judge Solomy Balungi Bossa**

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

**IN THE CASE OF THE PROSECUTOR V. BOSCO NTAGANDA**

**Public document**

**Order on participation of *amici curiae* in the hearing  
before the Appeals Chamber**

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

**The Office of the Prosecutor**

Ms Fatou Bensouda, Prosecutor  
Ms Helen Brady

**Counsel for the Defence**

Mr Stéphane Bourgon  
Ms Kate Gibson

**Legal Representatives of Victims**

Ms Sarah Pellet  
Mr Dmytro Suprun

***Amici Curiae***

Mr Michael A. Newton  
Mr Roger O’Keefe  
Ms Yolanda Gamarra  
ALMA - Association for the Promotion of  
International Humanitarian Law  
The Antiquities Coalition, Blue Shield  
International and Genocide Watch  
Mr Geoffrey S. Corn, Mr Richard Jackson,  
Mr Chris Jenks, Mr Eric Talbot Jensen  
and Mr James A. Schoettler, Jr.  
Ms Polina Levina and Ms Kaveri Vaid  
Ms Agnieszka Jachec-Neale  
Mr Pearce Clancy and Mr Michael Kearney  
of Al-Haq  
Ms Peta-Louise Bagott  
Public International Law & Policy Group  
University of Pretoria

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**Registrar**

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor against the ‘Judgment’ of Trial Chamber VI of 8 July 2019 (ICC-01/04-02/06-2359),

Pursuant to rule 103 of the Rules of Procedure and Evidence,

*Issues* the following

## ORDER

The following *amici curiae* are invited to attend remotely the hearing scheduled for 12-14 October 2020:

- i. Professor Michael A. Newton;
- ii. Professor Yolanda Gamarra;
- iii. Professors Geoffrey S. Corn, Richard Jackson, Chris Jenks, Eric Talbot Jensen, and James A. Schoettler, Jr.;
- iv. University of Pretoria.

## REASONS

1. On 8 July 2019, Trial Chamber VI convicted Mr Bosco Ntaganda of war crimes and crimes against humanity.<sup>1</sup>
2. On 7 October 2019, the Prosecutor filed her appeal brief.<sup>2</sup>
3. On 24 August 2020, the Appeals Chamber granted leave (the ‘Decision under Rule 103’)<sup>3</sup> to the following 12 individuals or groups of individuals to make written observations as *amici curiae*: Mr Roger O’Keefe, Ms Yolanda Gamarra, the University of Pretoria, Mr Michael A. Newton, the Antiquities Coalition, Blue Shield

<sup>1</sup> [Judgment](#), ICC-01/04-02/06-2359, with [Annex A](#) (ICC-01/04-02/06-2359-AnxA) and [Annex B](#) (ICC-01/04-02/06-2359-AnxB).

<sup>2</sup> [Prosecution Appeal Brief](#), ICC-01/04-02/06-2432, with [Annex A](#) (ICC-01/04-02/06-2432-AnxA).

<sup>3</sup> [Decision on the requests for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence](#), ICC-01/04-02/06-2569.

International and Genocide Watch, ALMA (the Association for the Promotion of International Humanitarian Law), Ms Agnieszka Jachec-Neale, Mr Pearce Clancy and Mr Michael Kearney of Al-Haq, Ms Polina Levina and Ms Kaveri Vaid, the Public International Law & Policy Group, Ms Peta-Louise Bagott, and Mr Geoffrey S. Corn, Mr Richard Jackson, Mr Chris Jenks, Mr Eric Talbot Jensen and Mr James A. Schoettler, Jr.

4. The Appeals Chamber indicated that upon receipt of the observations, it might ‘invite some of the *amici curiae* to attend, remotely if necessary, the hearing scheduled for 12 to 14 October 2020, to address some of the matters in more detail and/or answer additional questions’.<sup>4</sup>

5. On 17 and 18 September 2020, the Appeals Chamber received written observations of *amici curiae*.<sup>5</sup>

6. On 22 September 2020, the Appeals Chamber extended the time limit for the submission of written observations by the University of Pretoria, which was not notified of the Decision under Rule 103, due to an oversight.<sup>6</sup>

<sup>4</sup> [Decision under Rule 103](#), para. 12.

<sup>5</sup> [Observations of Professor Michael A. Newton on the merits of the legal questions presented by the Appeals Chamber in the Case of The Prosecutor v. Bosco Ntaganda](#), ICC-01/04-02/06-2584; [Observations by Professor Roger O’Keefe, pursuant to rule 103 of the Rules of Procedure and Evidence, on the merits of the legal questions presented in ‘Order inviting expressions of interest as amici curiae in judicial proceedings \(pursuant to rule 103 of the Rules of Procedure and Evidence\)’ of 24 July 2020 \(ICC-01/04-02/06-2554\)](#), ICC-01/04-02/06-2585; [Amicus Curiae Observations Pursuant to Rule 103 Of The Rules of Procedure and Evidence on the Merits of the Legal Questions Presented in the Appeal of the Prosecutor against the Judgment of Trial Chamber VI of 8 July 2019 \(ICC-01/0402/06-2359\)](#), ICC-01/04-02/06-2586; [Observations by ALMA – Association for the Promotion of IHL in the Case of The Prosecutor v. Bosco Ntaganda](#), ICC-01/04-02/06-2587; [Amicus Curiae Observations Pursuant to Rule 103 of the Rules of Procedure and Evidence on Behalf of the Antiquities Coalition, Blue Shield International and Genocide Watch](#), ICC-01/04-02/06-2588; [Submission of Observations to the Appeals Chamber Pursuant to Rule 103](#), ICC-01/04-02/06-2589; [Observations of Ms Polina Levina and Ms Kaveri Vaid on the merits of the legal questions presented by the Appeals Chamber in the Case of The Prosecutor v. Bosco Ntaganda](#), ICC-01/04-02/06-2590; [Amicus Curiae observations pursuant to rule 103 of the Rules of Procedure and Evidence](#), ICC-01/04-02/06-2591; [Corrected Version of “Amicus Curiae Submission Pursuant to Rule 103 of the Rules of Procedure and Evidence” \(18 September 2020\) ICC-01/04-02/06-2592](#), dated 21 September 2020 and registered on 22 September 2020, ICC-01/04-02/06-2592-Corr (original version was registered on 18 September 2020); [Observations of Peta-Louise Bagott, pursuant to rule 103 of the Rules of Procedure and Evidence, on the merits of the legal questions presented in ‘Order inviting expressions of interest as amici curiae in judicial proceedings \(pursuant to rule 103 of the Rules of Procedure and Evidence\)’ of 24 July 2020 \(ICC-01/04-02/06-2554\)](#), ICC-01/04-02/06-2593; [Amicus Curiae Observations by Public International Law & Policy Group](#), ICC-01/04-02/06-2594.

<sup>6</sup> [Order on observations pursuant to rule 103 of the Rules of Procedure and Evidence](#), ICC-01/04-02/06-2597.

7. The Appeals Chamber is grateful for the *amici curiae*'s written observations and for their valuable assistance in its determination of issues arising from the Prosecutor's appeal. Having considered the arguments presented and the reasons advanced in the observations (or in the expression of interest<sup>7</sup>), the Appeals Chamber invites the following *amici curiae* to attend the hearing scheduled for 12-14 October 2020:<sup>8</sup>

- i. Professor Michael A. Newton;
- ii. Professor Yolanda Gamarra;
- iii. Professors Geoffrey S. Corn, Richard Jackson, Chris Jenks, Eric Talbot Jensen, and James A. Schoettler, Jr.;
- iv. University of Pretoria.

8. The groups of individuals appearing as *amici curiae* are invited to select one or two persons to make oral observations, on a virtual basis, at the hearing. The modalities of (remote) participation in the hearing will be communicated to the selected *amici curiae* in due course.

Done in both English and French, the English version being authoritative.




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**Judge Howard Morrison**  
**Presiding**

Dated this 1<sup>st</sup> day of October 2020

At The Hague, The Netherlands

<sup>7</sup> [Expression of Interest as Amici Curiae in Judicial Proceedings](#), 12 August 2020, ICC-01/04-02/06-2557.

<sup>8</sup> [Second order scheduling a hearing](#), 20 August 2020, ICC-01/04-02/06-2568; [Directions on the conduct of the hearing](#), 14 September 2020, ICC-01/04-02/06-2580.