

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

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

Date: 7 April 2015

**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 Document  
With Confidential Annex 1**

**Registry Observations in response to "Order requesting submissions on the conduct of proceedings pursuant to Rule 140 of the Rules and on modalities of victims' participation at trial" (ICC-01/04-02/06-507)**

**Source:** Registry

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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**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

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**The Office of Public Counsel for the  
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**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**THE REGISTRAR** of the International Criminal Court (the "Court");

**NOTING** the "Corrigendum "Victims and Witnesses Unit's submission of the protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses pursuant to Order ICC-01/04-02/06-416", ICC-01/04-02/06-445", dated 27 February 2015;<sup>1</sup>

**NOTING** the "Order requesting submissions on the conduct of proceedings pursuant to Rule 140 of the Rules and on modalities of victims' participation at trial" dated of 12 March 2015 and notified on 13 March 2015 (the "Order of 12 March 2015");<sup>2</sup>

**NOTING** articles 43(6) and 68(1) and (4) of the Rome Statute ; rules 13(1), 16 to 19, 87 and 88 of the Rules of Procedure and Evidence ; regulations 23*bis*, 24 and 27 of the Regulations of the Court and regulations 50, 79 to 96 of the Regulations of the Registry;

**CONSIDERING** that in the Order of 12 March 2015, the Chamber instructed "the parties, the LRVs and the Registry to submit observations, as appropriate, on the items listed";<sup>3</sup>

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<sup>1</sup> ICC-01/04-02/06-445-Corr +Anx1

<sup>2</sup> ICC-01/04-02/06-507

<sup>3</sup> *Idem*, p. 10

**RESPECTFULLY SUBMITS** the following observations:

**A. Observations on the timing and manner that requests for in-court protective measures pursuant to Rules 87 and 88 of the Rules should be made**

**1) Rule 87**

1. The Victims and Witnesses Unit (the “VWU”) if required by the Chamber, will conduct an interview with the witnesses in order to address with them any security concerns they may have in relation to their appearance and to provide the Chamber with advice on the need to implement in-court protective measures.
2. Depending on when the parties will submit their request to the Chamber, the VWU could provide its advice sufficiently in advance in order for the Chamber to take a decision before the Unit conduct the familiarisation of the witness. The Unit would therefore be in a position to advise the witness during the familiarisation process about the in-court protective measures that have been granted.

**2) Rule 88**

3. In case the Chamber decide to adopt the “Protocol on the Vulnerability Assessment and Support Procedure used to facilitate the testimony of vulnerable witnesses” (the “Protocol”) as filed by the VWU on 5 February 2015<sup>4</sup>, the Unit will follow the different steps described in the Protocol once a witness is identified by the calling party or his/her legal representative, or by any other means.

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<sup>4</sup> ICC-01/04-02/06-445-Anx1

4. The VWU, in particular, recalls that upon arrival at the location of testimony the VWU Psychologist will assess the vulnerable witness and will evaluate the witness' current mental health and special needs.<sup>5</sup>
5. The VWU psychologist will provide the psychosocial vulnerability assessment and the recommendation to the Chamber, briefly before the testimony of the witnesses. The assessment report is only transmitted to the Chamber's attention as it contains information of a personal and private nature shared within the framework of a clinical psychological assessment. The calling party and the legal representative in case of individual enjoying dual status will only receive a copy of the recommendations.<sup>6</sup>

**B. Observations on the procedure and practices to be put in place for the recourse to private and/or closed sessions**

6. In order to minimise the frequency of closed or private sessions the parties should make use of the Protection Information Sheet. The Registry suggests following the approach taken in the Ruto and Sang case, if agreeable by the Chamber and parties.<sup>7</sup>

**C. Observations on procedure to be adopted for the production of public redacted transcripts**

7. The Registry suggests to follow the approach as detailed below:
  - a. Corrected Versions of Transcripts:
    8. Requests for corrections to the transcript shall be submitted, within five working days from the notification of the edited version of the transcript. The guideline on how to prepare requests for correction of transcripts is annexed

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<sup>5</sup> Idem, Para. 10

<sup>6</sup> ICC-01/04-02/06-445-Corr

<sup>7</sup> ICC-01/09-01/11-900 at para. 32

to this submission.<sup>8</sup> The said annex is classified as confidential as it relates to ICC internal procedures.

b. Public Redacted Versions of Transcripts following the hearing:

9. The Registry will distribute to the parties and participants the public redacted versions of the transcripts, at the latest on the second working day following the notification of its confidential edited or corrected version, where applicable. This public redacted version will only exclude (i) private or closed sessions and (ii) the passages removed following Redaction Order(s).

c. Public Redacted Versions of Transcripts ordered by the Chamber at a later stage:

10. The Registry suggests following the approach taken in the Ruto and Sang case.<sup>9</sup> At the latest two weeks following the testimony of its witness, the calling party may submit to the Chamber suggestions for additional redactions, if any. If the Chamber approves the parties' suggestions, the calling party shall transmit to the Registry the electronic version of the English and French transcripts containing approved redactions. The parties shall make sure that they are using the latest version of the transcripts (edited or corrected) before applying the redactions as ordered by the Chamber.

11. Furthermore, in case the Chamber deems it necessary to consult the VWU about the redactions proposed by the parties where the security of victims and witnesses is concerned, the Unit would highly recommend the following: (i) to be provided with the transcripts on a rolling basis within a reasonable period of time in order to ensure a review in a timely manner; and (ii) to receive the reasoning of the parties for the proposed redactions or the reasons for their

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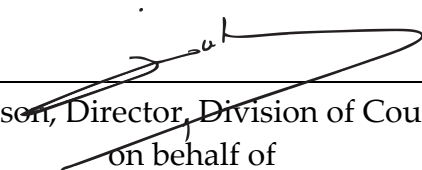
<sup>8</sup> Annex 1, hereto attached

<sup>9</sup> ICC-01/09-01/11-847-Corr at paragraph 34 and ICC-01/09-01/11-981 at paragraphs 8 to 10

disagreement in order to be in a position to fully assess the accuracy of the proposed redactions by the parties. This would allow the VWU to efficiently provide its advice and would strengthen the effectiveness of the whole review process by the Unit.

12. The Registry provides, also in Annex 1, the redaction guidelines to be used by parties and participants for the submission to the Court Management Section (CMS) of public redacted version of transcripts for registration. Once the redacted versions are received, CMS will register them.

**RESPECTFULLY SUBMITTED,**



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Marc Dubuisson, Director, Division of Court Services  
on behalf of  
Herman von Hebel, Registrar

Dated this 7 April 2015

At The Hague, The Netherlands.