



Original: English

**No. ICC-01/04-02/06 A3
Date: 13 February 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

Decision on victim participation

Decision 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

Mr Christopher Gosnell

Legal Representatives of Victims

Ms Sarah Pellet

Mr Dmytro Suprun

REGISTRY

Registrar

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Bosco Ntaganda against Trial Chamber VI's 'Sentencing judgment' of 7 November 2019 (ICC-01/04-02/06-2442),

Renders the following

DECISION

1. The victims who participated in the trial and sentencing proceedings in the case of *The Prosecutor v. Bosco Ntaganda* may, through their legal representatives, participate for the purpose of presenting their views and concerns in respect of their personal interests in the issues on appeal.
2. Each of the legal representatives of victims may file observations within 30 days of the notification of the Prosecutor's response to Mr Bosco Ntaganda's appeal brief. The observations shall not exceed 20 pages each.
3. Mr Bosco Ntaganda and the Prosecutor may respond within 15 days of notification of the victims' last observations. The responses to the victims' observations shall not exceed 25 pages each.

REASONS

1. The purpose of the present decision is to regulate the participation of victims in the appeal brought by Mr Bosco Ntaganda against Trial Chamber VI's sentencing decision of 7 November 2019 (the 'Sentencing Decision').¹
2. Under article 68(3) of the Statute, '[w]here the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial'.
3. The Appeals Chamber notes that Trial Chamber VI authorised 2,129 victims to participate in the trial proceedings in the case of *The Prosecutor v. Bosco*

¹ [Sentencing judgment](#), ICC-01/04-02/06-2442.

Ntaganda.² The participating victims are divided into two distinct groups: 283 former child soldiers and 1,846 victims of UPC/FPLC attacks; each group is represented by counsel from the Office of Public Counsel for victims.³ In the absence of any indication to the contrary, the Appeals Chamber assumes that those same victims participated in the sentencing proceedings.

4. Pursuant to regulation 86(8) of the Regulations of the Court, '[a] decision taken by a Chamber under rule 89 shall apply throughout the proceedings in the same case, subject to the powers of the relevant Chamber in accordance with rule 91, sub-rule 1'.

5. The Appeals Chamber notes that Mr Ntaganda was convicted on all charges brought against him⁴ and that he is appealing the entirety of the Conviction Decision, while the Prosecutor raises two grounds of appeal alleging errors with respect to Trial Chamber VI's findings regarding events at the Mongbwalu hospital and the church in Sayo.⁵ Mr Ntaganda is also appealing his sentence.⁶ Therefore, the Appeals Chamber finds that the victims who participated in the sentencing proceedings may participate in the appeal proceedings against the Sentencing Decision, as, in principle, their personal interests are affected by the appeal in the same way as during the sentencing proceedings.⁷

6. Pursuant to rule 91(1), and having regard to rules 91(2), 92(5) and (6) of the Rules of Procedure and Evidence, the Appeals Chamber determines that the victims may participate in the present appeal in the following manner: the legal representatives of victims may file observations presenting the victims' views and concerns with respect to the issues on appeal insofar as their personal interests are affected within 30 days of the notification of the Prosecutor's response to Mr

² [Annex A to 'Judgment'](#), 8 July 2019, ICC-01/04-02/06-2359-AnxA, para. 1.

³ [Annex A to 'Judgment'](#), 8 July 2019, ICC-01/04-02/06-2359-AnxA, para. 16; [Thirteenth Periodic Report on Victims in the Case and their General Situation](#), 6 June 2019, ICC-01/04-02/06-2353, para. 3.

⁴ Judgment, 8 July 2019, ICC-01/04-02/06-2359 (the '[Conviction Decision](#)'), pp. 535-539.

⁵ [Mr Ntaganda's Notice of Appeal against the Judgment pursuant to Article 74 of the Statute](#), 9 September 2019, ICC-01/04-02/06-2396; [Prosecution notice of appeal](#), 9 September 2019, ICC-01/04-02/06-2395.

⁶ [Notice of Appeal against Sentencing Judgment \(ICC-01/04-02/06-2442\)](#), 9 December 2019, ICC-01/04-02/06-2448.


⁷ See [Decision on victim participation](#), ICC-01/04-02/06-2439, 8 October 2019.

Ntaganda's appeal brief. The victims' observations on Mr Ntaganda's appeal shall not exceed 20 pages each.

7. The different groups of victims are also encouraged to file consolidated observations to the extent that their personal interests are affected in the same way by particular aspects of the appeal and to avoid repetition in the substance of their observations.

8. Mr Ntaganda and the Prosecutor may file consolidated responses to the victims' observations within 15 days of the notification thereof. The responses shall not exceed 25 pages each. Should the need arise to specify further the modalities of victims' participation in the pending appeal, the Appeals Chamber will give supplementary directions, either upon its own motion or upon application by the legal representatives of victims.

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



Judge Howard Morrison
Presiding

Dated this 13th day of February 2020

At The Hague, The Netherlands