

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 22 March 2013

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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

**Public
Urgent**

Decision on Setting the Date for the Initial Appearance and Related Issues

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor
Fatou Bensouda, Prosecutor

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar
Silvana Arbia

Deputy Registrar
Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”),¹ issues this decision on setting the date for the initial appearance of Bosco Ntaganda (Mr. Ntaganda) and related issues.

1. On 3 March 2004, the situation in the Democratic Republic of the Congo (“DRC”), from which the case against Mr. Ntaganda arises, was referred to the Prosecutor by the DRC in accordance with articles 13(a) and 14 of the Rome Statute (the “Statute”).²

2. On 5 July 2004, the situation was assigned to Pre-Trial Chamber I.³

3. On 22 August 2006, Pre-Trial Chamber I issued the “Decision on the Prosecution Application for a Warrant of Arrest”,⁴ along with a corresponding warrant of arrest for Mr. Ntaganda,⁵ for his alleged responsibility for the war crimes of conscripting, enlisting children under the age of fifteen and using them to participate actively in hostilities under either article 8(2)(b)(xxvi) or article 8(2)(e)(vii) of the Statute.

¹ Pre-Trial Chamber II, “Decision Designating a Single Judge”, 21 March 2013, ICC-01/04-02/06-40.

² Letter of Referral of the DRC Situation to the International Criminal Court by Joseph Kabila, dated 3 March 2004, annexed to the “Prosecutor’s Application for Warrants of Arrest, Article 58”, 12 January 2006 (notified on 13 January 2006), ICC-01/04-98-US-Exp-Anx 1.

³ Presidency, “Decision Assigning the Situation in the Democratic Republic of Congo to Pre-Trial Chamber I”, ICC-01/04-1.

⁴ Pre-Trial Chamber I, “Decision on the Prosecution Application for a Warrant of Arrest”, 22 August 2006, ICC-01/04-02/06-1-US-Exp-tEN; and Redacted version, 6 March 2007, ICC-01/04-02/06-1- Red-tENG.

⁵ Pre-Trial Chamber I, “Warrant of Arrest – Corrigendum”, 7 March 2007, ICC-01/04-02/06-2-Corr-tENG-Red.

4. On 15 March 2012, the situation in the DRC was re-assigned to the Chamber.⁶

5. On 14 May 2012, the Prosecutor filed the “Prosecutor’s Application under Article 58” (the “Application”), requesting a second warrant of arrest against Mr. Ntaganda for his alleged responsibility for (1) crimes against humanity of murder, rape/sexual slavery and persecution based on ethnic grounds under articles 7(l)(a), 7(l)(g) and 7(l)(h) of the Statute; and (2) war crimes of murder, intentional attacks against civilians, pillaging and rape/sexual slavery under articles 8(2)(c)(i), 8(2)(e)(i), 8(2)(e)(v) and 8(2)(e)(vi) of the Statute.⁷

6. On 13 July 2012, the Chamber issued its “Decision on the Prosecutor’s Application under Article 58”.⁸ In this decision the Chamber issued a second warrant of arrest against Mr. Ntaganda for the crimes alleged in the Application.⁹

7. On 22 March 2013, Mr. Ntaganda was surrendered and arrived at the detention centre of the Court.

⁶ Presidency, “Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d’Ivoire situations”, 15 March 2012, ICC-01/04-02/06-32.

⁷ “Prosecutor’s Application under Article 58 with Confidential *Ex Parte* Annex A and Annexes 1.1 to 26.6”, 14 May 2012, ICC-01/04-611-Conf-Exp. A public version was filed on 14 May 2012 (ICC-01/04-611-Red), a corrigendum on 15 May 2012 (notified on 16 May 2012) (ICC-01/04-611-Conf-Exp-Corr) and a corrigendum to the public version on 14 May 2012 (notified on 15 May 2012) (ICC-01/04-611-Red-Corr).

⁸ Pre-Trial Chamber II, “Decision on the Prosecutor’s Application under Article 58”, 13 July 2012, ICC-01/04-02/06-36-Conf-Exp; and Public redacted version, 13 July 2012, ICC-01/04-02/06-36-Red.

⁹ Pre-Trial Chamber II, “Decision on the Prosecutor’s Application under Article 58”, 13 July 2012, ICC-01/04-02/06-36-Conf-Exp, p. 37; and Public redacted version, 13 July 2012, ICC-01/04-02/06-36-Red, p. 37.

8. The Single Judge notes articles 60(1) and 67 of the Statute, rule 121(1) of the Rules of Procedure and Evidence (the “Rules”) and regulations 20(1) and 21 of the Regulations of the Court (the “Regulations”).

9. In particular, according to article 60(1) of the Statute together with rule 121(1) of the Rules, a person subject to a warrant of arrest under article 58 of the Statute “shall appear before the Pre-Trial Chamber” and be informed of the crimes he is alleged to have committed, his rights under the Statute and the date for a hearing to confirm or to decline to confirm the charges.

10. The Single Judge also notes regulation 21(1) of the Regulations according to which the publicity of hearings may extend beyond the courtroom, and accordingly, she authorizes video recording and the taking of photographs in the courtroom at the start of the initial appearance hearing.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

- a) decides** to convene the hearing for the initial appearance of Mr. Ntaganda on **Tuesday, 26 March 2013 at 11.00 hours;**
- b) authorizes** the Registrar to inform external applicants that, at the start of the initial appearance hearing and after all the participants have taken their seats, video recording and the taking of photographs will be permitted for no longer than one minute and a half.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Friday, 22 March 2013

At The Hague, The Netherlands