

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 12 July 2013

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Presiding Judge
Judge Hans-Peter Kaul
Judge Cuno Tarfusser

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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

PUBLIC
with Confidential, Prosecution and Defence Only, Annexes A and B
Prosecution's Communication of the Disclosure of Evidence

Source: Office of the Prosecutor

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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James Stewart, Deputy Prosecutor
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Counsel for the Defence

Marc Desalliers

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
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Registrar

Mr Herman von Hebel

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Deputy Registrar

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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Other
Section**

1. The Prosecution herewith submits its communication of the disclosure of incriminatory evidence pursuant to Articles 61(3)(b), and 67(1)(a) and (b) of the Rome Statute (the “Statute”).

Background

2. On 12 April 2013, Judge Trendafilova, acting as the Single Judge for Pre-Trial Chamber II (“the Single Judge”), established the regime for evidence disclosure and related matters for this case (“the First Decision”).¹
3. On 17 May 2013, the Single Judge issued the “Decision Establishing a Calendar for the Disclosure of Evidence Between the Parties” (“the Second Decision”).²
4. On 18 June 2013, the Single Judge issued the “Decision on the “Prosecution’s Urgent Request to Postpone the Date of the Confirmation Hearing” and Setting a New Calendar for the Disclosure of Evidence Between the Parties” (“the Third Decision”)³ whereby she confirmed the principles established in the Second Decision, but suspended the deadlines for the disclosure of evidence set out therein.
5. In the Third Decision, the Single Judge ordered the Prosecution, *inter alia*, to disclose to the Defence any evidence on which it intends to rely for the purposes of the confirmation of charges hearing, that has been collected until 13 July 2012 and for which no redaction is needed, no later than Monday, 2 September 2013.⁴
6. On 11 July 2013, the Prosecution disclosed to the Defence a total of 626 items without redactions, listed in Confidential Annex A.⁵ In compliance with the

¹ ICC-01/04-02/06-47.

² ICC-01/04-02/06-64.

³ ICC-01/04-02/06-73.

⁴ ICC-01/04-02/06-73, page 19.

⁵ As required by the Single Judge, the two lists of evidentiary items contained in Confidential Annex A reflect the level of confidentiality applicable to each item. The Prosecution will inform the Court Management System of the recipients - at this stage the Defence only - to whom the material should be released on e-Court.

Single Judge's decisions, the Prosecution also provided the material to the Registry.

7. These items include incriminatory evidence collected until 13 July 2012 which can be disclosed unredacted without jeopardizing the safety and well-being of witnesses, victims, and other persons at risk.⁶
8. Lastly, the Prosecution herewith provides the Chamber with the in-depth analysis chart of incriminating evidence that accompanied the disclosure, attached in Confidential Annex B, which it has already provided to the Defence.



Fatou Bensouda,
Prosecutor

Dated this 12th day of July 2013
At The Hague, The Netherlands

⁶ The Prosecution notes that some of the material disclosed to the Defence is subject to protective measures imposed by Trial Chamber I. It has informed the Defence of these protective measures.