

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/04-02/06
Date: 5 November 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***

Confidential
with Confidential, Prosecution and Defence Only, Annexes A, B and C
**Prosecution's Communication of the Disclosure of Evidence and Submission of
Rule 77 Inspection Report**

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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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

Mr Herman von Hebel

Counsel Support Section

Deputy Registrar

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, and submits an "Inspection Report" in respect of the Defence's inspection of materials disclosed by the Prosecution as incriminatory evidence.

Disclosure of Incriminatory Evidence

2. On 2 September 2013, further to the Single Judge's decision setting a new calendar for the disclosure of evidence between the parties,¹ the Prosecution filed its first application for redactions to evidence on which it intends to rely for the purposes of the confirmation of charges hearing. In its application, the Prosecution, *inter alia*, requested the delayed disclosure of the materials of DRC-OTP-P-0027 and DRC-OTP-P-0290, and made proposals for redactions to their content.²
3. On 1 October 2013, the Single Judge issued the "First Decision on the Prosecutor's Requests for Redactions and Other Related Requests" ("First Decision"), granting the request for delayed disclosure of these materials until 1 November 2013 and authorising redactions to their content.³
4. On 24 October 2013, the Prosecution requested additional redactions to the Statements of DRC-OTP-P-0290,⁴ which the Single Judge granted on 25 October 2013.⁵
5. In compliance with the Single Judge's First Decision and her decision on additional redactions, on 1 November 2013, the Prosecution disclosed the materials of these witnesses to the Defence, with redactions applied to their content as authorised by the Single Judge.

¹ ICC-01/04-02/06-73, p. 19.

² ICC-01/04-02/06-98-Conf-Exp.

³ ICC-01/04-02/06-117-Conf-Red.

⁴ ICC-01/04-02/06-126-Conf-Exp.

⁵ ICC-01/04-02/06-129-Conf-Red.

6. The Prosecution also disclosed further incriminatory evidence,⁶ in accordance with the decision setting a new calendar for the disclosure of evidence between the parties, and the deadline set out therein for the disclosure of evidence collected by the Prosecution after 13 July 2012.⁷ The Prosecution appends the list of evidence disclosed on 1 November in Confidential Annex A.⁸
7. Furthermore, the Prosecution herewith provides the Chamber and the Defence with the in-depth analysis chart of incriminating evidence, appended in Confidential Annex B.

Inspection of materials by the Defence

8. Lastly, the Prosecution herewith submits an "Inspection Report", appended in Confidential Annex C, in respect of the Defence's inspection of the original versions of materials disclosed by the Prosecution as incriminatory evidence, which took place on the premises of the Office of the Prosecutor on Thursday, 24 October 2013.

⁶ The Prosecution notes that the evidence provided to the Defence comprises 25 satellite images which, for technical reasons, namely their excessive size, can neither be disclosed through the usual procedures, nor be uploaded on e-Court. For this reason, on 1 November, the Prosecution provided the Defence with three DVDs containing the images as well as hyperlinks to download them. The Prosecution will provide the same images to the Court Management Section on three separate DVDs. The formal disclosure of these items will be limited to the disclosure of the images of the DVDs, bearing the following ERNs: DRC-OTP-2059-0204, DRC-OTP-2059-0206 and DRC-OTP-2059-0207.

⁷ ICC-01/04-02/06-73, p. 19.

⁸ As required by the Single Judge, the list of evidentiary items contained in Confidential Annex A reflects the level of confidentiality applicable to each item. The Prosecution will inform the Court Management Section of the recipients - at this stage the Defence only - to whom the material should be released on e-Court.

Confidentiality

9. Pursuant to Regulation 23*bis*, this present filing is classified as "Confidential" as it refers to decisions that bear that classification level.



Fatou Bensouda,
Prosecutor

Dated this 5th day of November 2013
At The Hague, The Netherlands