

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/04-02/06
Date: 20 December 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 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

Ms Fatou Bensouda
Mr James Stewart
Ms Nicole Samson

Counsel for the Defence

Mr Marc Desalliers
Ms Caroline Buteau
Ms Andrea Valdivia

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
Section Other**

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; of evidence pursuant to Article 67(2); and of material falling within Rule 77 of the Rules of Procedure and Evidence (the "Rules").
2. On 24 September 2013, the Single Judge granted the Defence's request for the translation into Kinyarwanda of the transcripts of the testimonies rendered by certain witnesses before Trial Chamber I in the course of the trial proceedings against Thomas Lubanga Dyilo.¹
3. On 1 November 2013, further to the Single Judge's decision setting a new calendar for the disclosure of evidence between the parties,² the Prosecution filed its third application for redactions to evidence on which it intends to rely upon at the confirmation of charges hearing.³
4. On 30 October 2013, the Prosecution requested a variation of the time limit for the submission of justified proposals for redactions to the statement of witness DRC-OTP-P-0317,⁴ which the Single Judge granted on 31 October 2013.⁵ On 15 November 2013, the Prosecution filed an application for redactions to the statement of this witness.⁶
5. On 5 December 2013, the Single Judge issued the "Third Decision on the Prosecutor's Requests for Redactions", authorising redactions to the materials that formed part of the Prosecution's third application for redactions and the statement of witness DRC-OTP-P-0317.⁷

¹ ICC-01/04-02/06-115.

² ICC-01/04-02/06-73, p. 20.

³ ICC-01/04-02/06-124-Conf-Exp and ICC-01/04-02/06-134-Conf-Exp.

⁴ ICC-01/04-02/06-131-Conf-Red.

⁵ ICC-01/04-02/06-133-Conf-Red.

⁶ ICC-01/04-02/06-142-Conf-Exp.

⁷ ICC-01/04-02/06-165-Conf-Exp.

6. On 6 December 2013, the Prosecution requested a variation of the time limit for the submission of an updated expert report on satellite image analysis,⁸ which the Single Judge granted on 12 December 2013.⁹
7. On 12 December 2013, the Prosecution filed a request for two additional redactions to the materials that formed part of its third application for redactions. The Prosecution further requested a variation of the time limit for the disclosure of a corrected version of a previously disclosed translation.¹⁰ The Single Judge granted these requests on 16 December 2013.¹¹
8. In compliance with the Single Judge's decisions, on 16 December 2013, the Prosecution disclosed these materials to the Defence, with redactions applied to their content and metadata, as authorised. On 20 December 2013, the Prosecution disclosed additional materials to the Defence. These materials include 13 courtesy copies of translations into Kinyarwanda,¹² in accordance with the Single Judge's "Decision on the «Demande de la Défense aux fins de traduction en kinyarwanda de certains des principaux éléments de preuve»".¹³ The Prosecution appends the list of evidence disclosed in Confidential Annex A.¹⁴
9. The Prosecution also provides the Chamber and the Defence with the in-depth analysis chart of this incriminating evidence, appended in Confidential Annex B.

⁸ ICC-01/04-02/06-166-Conf.

⁹ ICC-01/04-02/06-175-Conf.

¹⁰ ICC-01/04-02/06-178-Conf-Exp.

¹¹ ICC-01/04-02/06-180-Conf-Corr-Red.

¹² The Prosecution notes that the formal disclosure of these translations will take place as soon as practicable.

¹³ ICC-01/04-02/06-115.

¹⁴ 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

10. 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 20th day of December 2013
At The Hague, The Netherlands