

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/04-02/06
Date: 17 January 2014

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
with Confidential, Prosecution and Defence Only, Annexes A, B and C
**Prosecution's Communication of the Disclosure of Evidence and Submission of
a Consolidated In-depth Analysis Chart of Incriminating Evidence**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Detention Section

**Victims Participation and Reparations Other
Section**

Introduction

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”); and submits a consolidated in-depth analysis chart of incriminating evidence.

Procedural background

2. On 12 April 2013, the Single Judge issued her “Decision Setting the Regime for Evidence Disclosure and Other Related Matters”, wherein she established the regime for evidence disclosure, including by requesting the Prosecution to present an in-depth analysis chart of incriminating evidence to be disclosed to the Defence.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 at the confirmation of charges hearing.³ On 5 December 2013, the Single Judge issued the “Third Decision on the Prosecutor’s Requests for Redactions” (“Third Decision”), authorising redactions to the materials that formed part of the Prosecution’s third application for redactions and authorising the temporary non-disclosure of the original audio recordings of the interview of witness P-0055.⁴

¹ ICC-01/04-02/06-47, paras 29-32.

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-01/04-02/06-165-Conf-Red.

4. On 20 December 2013, the Defence requested the translation into Kinyarwanda of several statements and interview transcripts disclosed to it by the Prosecution, in accordance with the Third Decision, as well as any other Kinyarwanda translation finalised by the Prosecution in anticipation of the Defence request.⁵ The Single Judge granted this request on 30 December 2013 and ordered the Prosecution to disclose these translations by 10 January 2014. The Single Judge further ordered the Prosecution to disclose the redacted audio recordings and the final version of the transcription of the interview of witness P-0055 by 10 January 2014 at the latest.⁶
5. On 14 January 2014, the Single Judge ordered the Prosecution to file its consolidated in-depth analysis chart by 17 January 2014.⁷
6. On 15 January 2014, the Single Judge issued her “Decision on Victims’ Participation at the Confirmation of Charges Hearing in the Related Proceedings” (“Decision on Victims’ Participation”), whereby she set out the participatory rights of victims participated in these proceedings. In particular, the Single Judge held that the common legal representatives “have the right [...] to have access to all the public decisions and public filings in the record of the case, including public evidence filed by the Prosecutor and the Defence, in the same format as disclosed to the recipient party”.⁸

⁵ ICC-01/04-02/06-187.

⁶ ICC-01/04-02/06-193.

⁷ ICC-01/04-02/06-209, page 7.

⁸ ICC-01/04-02/06-211, paras 88-89.

Disclosure of evidence

7. In compliance with the Single Judge's decisions, on 10 January 2014, the Prosecution disclosed to the Defence the audio recordings and the final versions of the interview transcripts of witness P-0055, as well as the Kinyarwanda translations of the statements of witnesses P-0018, P-0019, P-0108, P-0315, P-0317, P-0758, P-0761, P-0773, P-0792, P-0804, P-0805 and P-0806, with redactions applied to their content, as authorised. The Prosecution further disclosed materials pursuant to Article 67(2) and falling within Rule 77 and appends the total list of the evidence disclosed in Confidential Annex A.⁹ The Prosecution notes that some of these materials are subject to protective measures imposed by other Chambers of this Court and hereby informs the Single Judge and the Defence of the nature of these protective measures (Confidential Annex B).

8. The Prosecution further informs the Single Judge that, in accordance with the Decision on Victims' Participation, the Prosecution has requested the Court Management Services to provide counsel representing the victims admitted to participate in these proceedings with access to the public evidence disclosed by the Prosecution, in the same format as disclosed to the Defence.

⁹ The Prosecution notes that some of these materials were previously disclosed to the Defence by way of courtesy copies. On 20 December 2013, the Prosecution disclosed to the Defence a courtesy copy of the investigation note related to P-0030, which the Single Judge ordered to be disclosed with redactions on the same day (ICC-01/04-02/06-189), as well as courtesy copies of the Kinyarwanda translations of the transcripts of the testimonies rendered by certain witnesses before Trial Chamber I, in accordance with the "Decision on the «Demande de la Défense aux fins de traduction en kinyarwanda de certains des principaux éléments de preuve»" (ICC-01/04-02/06-115). The Prosecution proceeded to their formal disclosure on 10 January 2014.

Consolidated in-depth analysis chart of incriminating evidence

9. Lastly, in accordance with the Single Judge's "Decision Setting the Regime for Evidence Disclosure and Other Related Matters" and the "Decision on the Defence Urgent Request of 14 January 2014", the Prosecution herewith provides the Chamber and the Defence with a consolidated in-depth analysis chart of incriminating evidence, appended in Confidential Annex C.



Fatou Bensouda,
Prosecutor

Dated this 17th of January 2014
At The Hague, The Netherlands