

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 24 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

**Decision Convening a Status Conference on Disclosure Issues and on the
Organisation of the Confirmation Hearing**

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

The Office of the Prosecutor

Fatou Bensouda, Prosecutor

James Stewart, Deputy Prosecutor

Counsel for the Defence

Marc Desalliers

Legal Representatives of the Victims

Sarah Pellet

Dmytro Surprun

Legal Representatives of the 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

Other

REGISTRY

Registrar

Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court,¹ hereby renders this decision for the purpose of convening a status conference.

1. On 12 April 2013, the Single Judge issued the “Decision Setting the Regime for Evidence Disclosure and Other Related Matters” (the “12 April 2013 Decision”), in which she, *inter alia*, set the principles governing the process of disclosure between the parties.²

2. On 17 May 2013, the Single Judge issued the “Decision Establishing a Calendar for the Disclosure of Evidence Between the Parties” for the purpose of providing the parties with a precise timetable for disclosure and requests for redactions or translation of evidence.³

3. On 17 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”,⁴ in which the Single Judge, *inter alia*, postponed the commencement of the confirmation of charges hearing, initially scheduled to take place on 23 September 2013, until Monday, 10 February 2014.⁵ In the same decision, the Single Judge established a new calendar for the disclosure of evidence, including for the submission, if any, of requests for redactions.⁶

4. On 9 January 2014, the Chamber received the “Prosecution’s information of the Status of Disclosure”, in which the Prosecutor “inform[ed] the Single Judge of the status of disclosure in this case, including of items collected under conditions of

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

² Pre-Trial Chamber II, ICC-01/04-02/06-47 and its annexes.

³ Pre-Trial Chamber II, ICC-01/04-02/06-64.

⁴ Pre-Trial Chamber II, ICC-01/04-02/06-73.

⁵ Pre-Trial Chamber II, ICC-01/04-02/06-73, p. 19.

⁶ Pre-Trial Chamber II, ICC-01/04-02/06-73, pp. 19-22.

confidentiality pursuant to article 54(3)(e) of the Rome Statute” (the “Prosecutor’s Information”).⁷

5. On 10 January 2014, the Single Judge ordered the Defence, by way of email, to respond to the Prosecutor’s Information.

6. On 10 January 2014, the Chamber received the “Prosecution’s Sixth Application for Redactions”.⁸

7. On 14 January 2014, the Defence filed the “Réponse de la Défense de M. Bosco Ntaganda à la ‘Prosecution’s Information of the Status of Disclosure’ transmise le 9 janvier 2014” (the “Defence’s Response”).⁹

8. On 15 January 2014, the Single Judge issued the “Order Regarding the ‘Prosecution’s Information of the Status of Disclosure’”, in which she, *inter alia*, ordered the Prosecutor to submit observations on a number of elements concerning disclosure of evidence as specified in said order and on others raised in the Defence’s Response.¹⁰

9. On 17 January 2014, the Chamber received the “Prosecution’s Response to the ‘Réponse de la Défense de M. Bosco Ntaganda à la ‘Prosecution’s Information of the Status of Disclosure’ transmise le 9 janvier 2014’ (ICC-01/04-02/06-208)” (the “Prosecutor’s Response”).¹¹

10. The Single Judge notes articles 21(1)(a) and (3), 43(1) and 61 of the Rome Statute (the “Statute”) and rule 121(2) of the rules of Procedure and Evidence (the “Rules”).

11. The Single Judge further notes that according to rule 121(2) of the Rules, “[i]n accordance with article 61, paragraph 3, the Pre-Trial Chamber shall take the necessary decisions regarding disclosure [...]”. In this context, the Single Judge has

⁷ ICC-01/04-02/06-201.

⁸ ICC-01/04-02/06-204-Conf-Exp with confidential *ex parte* annexes.

⁹ ICC-01/04-02/06-208.

¹⁰ Pre-trial Chamber II, ICC-01/04-02/06-210, p. 7.

¹¹ ICC-01/04-02/06-216.

carefully studied the Prosecutor's Information together with the Defence's Response and the Prosecutor's Response and considers it essential to convene a status conference to discuss the issues raised in these documents submitted to the Chamber. Moreover, being keen to expedite the proceedings, the Single Judge also considers it plausible to address some questions related to the organisation of the confirmation hearing.

12. In this regard, the parties will be asked to indicate the time needed for the presentation of their evidence and other related matters during the confirmation hearing and whether they intend to call *viva voce* witnesses.

13. In particular, the Single Judge notes that pursuant to rule 122(2) and (3) of the Rules the parties may raise questions or challenges concerning jurisdiction or admissibility as well as raise objections or make observations concerning an issue related to the proper conduct of the proceedings prior to the confirmation hearing. The Single Judge deems it necessary to receive, for the purposes of establishing the schedule for the confirmation hearing, information as to whether the parties intend to make any such submission, and if so, how much time they anticipate will be necessary to present such issues.

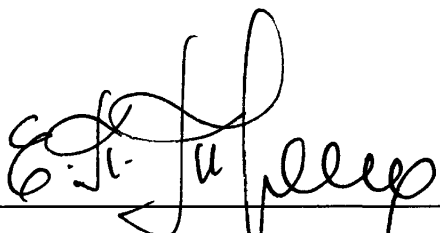
14. The Single Judge expects that the Prosecutor organize her arguments and presentation of evidence following the Draft Model Chart appended to the 12 April 2013 Decision starting with the contextual element of the crimes against humanity and thereafter the specific constituent elements of the crimes charged. The Prosecutor should follow the same methodology for the presentation of war crimes and finally the individual criminal responsibility.

15. Similarly, the Single Judge considers it appropriate to obtain from the Defence team of the suspect information on the time needed to present their respective evidence as well as the time they need for the questioning of each witness, if any, called to testify.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

decides to convene a status conference on Monday, 27 January 2014, at 14.30hrs to be held in closed session in court room 2 in the presence of the Prosecutor, the Defence and the Registrar or his representative(s).

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Friday, 24 January 2014

At The Hague, The Netherlands