

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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Date: 3 February 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

**Prosecution's First Report on the Status of Disclosure of Documents Obtained
under Article 54(3)(e)**

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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Prosecution's Report

1. In the "Decision Regarding the Non-Disclosure of 116 Documents Collected Pursuant to Article 54(3)(e) of the Rome Statute",¹ the Single Judge ordered the Prosecution to submit a report every two weeks on the status of the documents obtained under article 54(3)(e) of the Rome Statute ("Statute") that are to be disclosed to the Defence. The Prosecution hereby submits its first report.

2. On 24 and 31 January 2014, the Prosecution obtained the consent of one provider to lift restrictions to 14 documents identified by the Prosecution as containing information falling under rule 77 of the Rules of Procedure and Evidence ("Rules"). The Prosecution filed a request for redactions to these items. 11 of the 14 items were part of the list of 116 documents submitted to the Single Judge on 17 January 2014.² A 12th document was listed as part of the 56 documents submitted to the Single Judge on 30 January 2014.³ Two of the 14 documents contain information that the Prosecution assessed as incriminating. The Prosecution has requested redactions to these 14 documents.⁴ Once the Single Judge has ruled on the redaction request, the Prosecution will disclose these documents.

3. On 30 January 2014, the Prosecution obtained the consent of a second provider to lift conditions of receipt for five documents identified by the Prosecution as containing information falling under rule 77 of the Rules.. The Prosecution disclosed these five documents to the Defence on 31 January 2014. Two of the five documents were part of the list of 116 documents collected under 54(3)(e) pending a lifting request for disclosure pursuant to rule 77.⁵ Three of the five

¹ ICC-01/04-02/06-229, page 10.

² ICC-01/04-02/06-216-Conf-Exp-Anx 4, 86, 89-97.

³ ICC-01/04-02/06-239-Conf-Exp-Anx-33.

⁴ ICC-01/04-02/06-241-Conf-Exp.

⁵ ICC-01/04-02/06-216-Conf-Exp-Anx 54 and 58.

items were part of the 56 documents classified as containing incriminatory evidence and also information falling under rule 77.⁶ On the same day, the provider lifted restrictions to 10 additional documents classified by the Prosecution as incriminating. These 10 items were also disclosed to the Defence on 31 January 2014 under the general provision of rule 77. Should the charges be confirmed, these 10 documents will be re-disclosed as incriminating.

4. On 31 January 2014, the provider lifted restrictions to an additional 19 documents, 18 of which are part of the list of 116 documents submitted to the Single Judge on 17 January 2014.⁷ The 19th document is part of the 56 documents submitted to the Single Judge on 30 January 2014.⁸ The Prosecution will disclose all 19 documents to the Defence today, 3 February 2014.
5. To date, the Prosecution has obtained lifting of 54(3)(e) restrictions for 48 documents: (a) 36 documents out of the 172 identified as containing information falling within the provisions of rule 77, and (b) 12 documents classified as incriminating.



Fatou Bensouda,
Prosecutor

Dated this 3rd day of February 2014
At The Hague, The Netherlands

⁶ ICC-01/04-02/06-239-Conf-Exp-Anx 25, 34 and 38.

⁷ ICC-01/04-02/06-216-Conf-Exp-Anx 58, 99-115.

⁸ ICC-01/04-02/06-239-Conf-Exp-Anx-32.