

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/04-02/06
Date: 6 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
with Confidential, Prosecution and Defence Only, Annex A
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:

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Detention Section

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Introduction

1. The Prosecution herewith submits its communication of the disclosure of evidence pursuant to Article 67(2) and of material falling within Rule 77 of the Rules of Procedure and Evidence.

Procedural background

2. On 10 January 2014, the Prosecution filed its sixth application for redactions to information in statements and documents to be disclosed under the provisions of Article 67(2) or Rule 77.¹ On 28 January 2014, the Single Judge issued the “Sixth Decision on the Prosecutor's requests for redactions” (“Sixth Decision”), authorising redactions to these materials and ordering the Prosecution to disclose them within two days of the notification of her decision.²
3. On 24 January 2014, the Prosecution filed a request with Trial Chamber II for the variation of protective measures for three witnesses, in view of the disclosure to Bosco Ntaganda and his Defence team of their testimony in the *Katanga and Ngudjolo* proceedings.³ Trial Chamber II granted this request on 30 January 2014.⁴
4. On 30 January 2014, the Prosecution requested a variation of the protective measures imposed by Trial Chamber I for two witnesses in respect of whom the Defence has requested the disclosure of their testimony in the *Lubanga* proceedings.⁵ On 3 February 2014, the Single Judge granted the request and

¹ ICC-01/04-02/06-204-Conf-Exp.

² ICC-01/04-02/06-233-Conf-Red.

³ ICC-01/04-01/07-3426-Conf-Exp.

⁴ ICC-01/04-01/07-3428-Conf-Exp.

⁵ ICC-01/04-02/06-238-Conf.

ordered the Prosecution to disclose these transcripts no later than 5 February 2014.⁶

Disclosure of evidence

5. On 31 January 2014, the Prosecution disclosed to the Defence the redacted materials that are subject to the Single Judge's Sixth Decision, as well as the transcripts of the testimony of one Defence witness who testified during the *Lubanga* proceedings, following a Defence request to this effect.
6. On 3 February 2014, the Prosecution disclosed the 56 transcripts of the testimony of three witnesses in the *Katanga and Ngudjolo* proceedings, in respect of whom Trial Chamber II has granted a variation of protective measures on 30 January 2014.⁷
7. On 5 February 2014, in accordance with the Single Judge's decision granting a variation of protective measures, the Prosecution disclosed to the Defence the transcripts of the testimony of three witnesses during the *Lubanga* proceedings.
8. Lastly, between 31 January and 5 February 2014, the Prosecution disclosed 33 items collected pursuant to Article 54(3)(e) for which the provider has lifted the confidentiality restrictions on 30 and 31 January 2014.⁸ The

⁶ ICC-01/04-02/06-244-Conf.

⁷ These transcripts were provided to the Defence by way of advance copies on 31 January 2014, and formally disclosed on 3 February 2014.

⁸ The Prosecution notes that, in advance of their registration and formal disclosure, it provided the Defence with advance copies of several documents: (i) four documents for which the provider lifted confidentiality restrictions on 30 January 2014 were provided to the Defence by way of advance copies on 31 January 2014 and formally disclosed on 3 February 2014; (ii) 19 documents for which confidentiality restrictions were lifted on 30 and 31 January 2014 were provided to the Defence by way of advance copies on 3 February 2014 and formally disclosed on 5 February 2014. Lastly, the Prosecution notes that the two pages of one document were registered as two separate items instead of as one item. Accordingly, documents DRC-OTP-2063-5432 and DRC-OTP-2063-5433 should therefore be considered together as a single item.

Prosecution appends the total list of the evidence disclosed in Confidential Annex A.



Fatou Bensouda,
Prosecutor

Dated this 6th day of February 2014
At The Hague, The Netherlands