

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 2 March 2015

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Geoffrey Henderson

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Public

Prosecution's request for extension of page limit for the Pre-Trial Brief

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 Stéphane Bourgon

Mr Luc Boutin

Legal Representatives of Victims

Ms Sarah Pellet

Mr Dmytro Suprun

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

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Other
Section**

Prosecution Submissions

1. On 6 February 2015, Trial Chamber VI (“Chamber”) ordered the Office of the Prosecutor (“Prosecution”) to file a Pre-Trial Brief.¹ Pursuant to regulation 37(2) of the Regulations of the Court (“RoC”), the Prosecution requests that the 20-page limit prescribed in regulation 37(1) of the RoC be extended to a maximum of 250 pages for the Pre-Trial Brief (“Request”).
2. The Chamber ordered that the Pre-Trial Brief include “for each count, a summary of the relevant evidence upon which the Prosecution intends to rely, and which clearly explains how the evidence relates to the charges.”²
3. The Accused has been charged with 18 counts of crimes against humanity and war crimes, which are alleged to have taken place in or around multiple locations, through 6 modes of liability,³ over a period of more than 16 months.⁴ In this light, the need to adequately and comprehensively meet the Chamber’s requirements for the Pre-Trial Brief constitutes exceptional circumstances justifying this Request.
4. The Prosecution notes that, by way of comparison, its submissions on issues that were raised during the confirmation of charges hearing totalled 120

¹ ICC-01/04-02/06-450, para.89. On 19 February 2015, the Chamber granted an extension of time to file the Pre-Trial Brief by 9 March 2015, ICC-01/04-02/06-467. On 27 February 2015, the Chamber denied the Defence’s request for reconsideration of this extension, see ICC-01/04-02/06-483, ICC-01/04-02/06-471.

² ICC-01/04-02/06-450, para.89. The Chamber has also stated that the Pre-Trial Brief is a document designed to provide “additional assistance and notice to the Defence of the nature of the Prosecution’s case and how the intended evidence relates to the charges”, ICC-01/04-02/06-467, para.11. Similarly, Counsel for the Accused has previously referred to the Pre-Trial Brief as the Prosecution’s “theory of the case under a narrative format”, ICC-01/04-02/06-T-13-ENG, p.38, lns.7-8.

³ The Prosecution notes that in its 14 November 2014 filing it stated that “[t]o provide maximum guarantees to the Accused, the Prosecution stresses that, under regulation 55 of the Regulations of the Court, the Trial Chamber may change the legal characterisation of the facts to include direct co-perpetration as a form of criminal responsibility”, see ICC-01/04-02/06-402, para.10.

⁴ See ICC-01/04-02/06-458-AnxA containing the Updated Document Containing the Charges.

pages.⁵ Pursuant to Pre-Trial Chamber II's order,⁶ this filing was limited to issues discussed at the confirmation hearing and, therefore, did not address all the issues relevant to each count. The Prosecution intends to provide more comprehensive references to relevant evidence, including to evidence obtained after the confirmation hearing,⁷ in its Pre-Trial Brief.

5. The Prosecution acknowledges that the quality and effectiveness of the Pre-Trial Brief is not contingent on its length and it will therefore keep it as concise as possible. However, the Prosecution does not want to omit relevant information or references to key evidence that could provide a more clear and cogent overview of its case.
6. A more comprehensive and complete overview will assist the Chamber, the Defence and the participants, especially in light of the Defence's recently raised concerns regarding its ability to be ready for trial and to represent and protect the rights of the Accused.⁸

⁵ ICC-01/04-02/06-276-Conf with public redacted version at ICC-01/04-02/06-276-Red. The Pre-Trial Chamber had originally imposed a 100-page limit on the Prosecution's observations (ICC-01/04-02/06-T-11-ENG ET WT, p.11, lns.20-21) but later authorised a 20-page extension (in a 7 March 2014 email).

⁶ ICC-01/04-02/06-T-11-ENG ET WT, p.11, lns.9-14. The Single Judge of Pre-Trial Chamber II also ordered the parties to file all the presentations made during the confirmation of charges hearing in the record of the case, ICC-01/04-02/06-245, para.9. The Prosecution's presentations as filed comprised of several hundreds of pages in total, see Annexes to ICC-01/04-02/06-258.

⁷ The hearing on the confirmation of charges took place between 10 and 14 February 2014.

⁸ ICC-01/04-02/06-T-18-CONF-ENG, p.7, ln.25-p.8, ln.1 (open session).

Relief Requested

7. Based on the foregoing and pursuant to regulation 37(2) of the RoC, the Prosecution requests the Chamber to grant an extension of the page limit applicable to the Pre-Trial Brief to a maximum of 250 pages.



Fatou Bensouda,
Prosecutor

Dated this 2nd day of March 2015
At The Hague, The Netherlands