

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

**With Confidential, *EX PARTE* Annexes A-D – only available to the Prosecution,
VWU, and P-0040's Legal Representative**

**Public redacted version of "Prosecution urgent request for authorisation to
provide a summary of P-0040's statement and to apply redactions to the
statement's annexes", 2 March 2015**

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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Introduction

1. The Office of the Prosecutor (“Prosecution”) requests Trial Chamber VI (“Chamber”) to authorise (i) the provision of a summary of non-trial witness P-0040’s¹ statement in lieu of “non-standard redactions”² to this statement; and (ii) “non-standard redactions” to the annexes to P-0040’s statement. The Prosecution requests that these measures be maintained until there is a relevant change in circumstances (“Request”).

2. Redactions to the statement of P-0040, who is not a Prosecution trial witness, will be insufficient to protect this individual’s identity. On the other hand, redactions to the annexes to this statement will suffice for this purpose.

3. These measures are necessary in order to protect the safety, well-being, dignity and privacy of this individual pursuant to articles 54(3)(f), 57(3)(c), 64(2) and (6)(e), and 68(1) and (5) of the Rome Statute, and rule 81(4) of the Rules of Procedure and Evidence. Granting the Request will strike the appropriate balance between the Accused’s rights and the Court’s protection obligations.

4. The Prosecution makes this request on an urgent basis in light of the 2 March 2015 disclosure deadline. For the reasons detailed below, the Prosecution was unable to make this request at an earlier stage, and is unable to provide the Chamber with a proposed summary until 4 March 2015.

Confidentiality

5. This request and its annexes are classified as “Confidential, *EX PARTE*- only available to the Prosecution, VWU and P-0040’s Legal Representative” pursuant to regulation 23*bis*(1) of the Regulations of the Court because they contain information

¹ [REDACTED]

² See ICC-01/04-02/06-411-AnxA, para.3(ii).

relevant to the identity and security situation of an individual in relation to whom redactions are being sought. Revealing this information would undermine the requested relief and create security risks to the individuals concerned. The Prosecution will file a confidential, redacted version of this request.

Statement of Facts

6. The Prosecution concluded an interview with P-0040 and obtained a signed statement, [REDACTED] (“the statement”), [REDACTED]. The statement contains information that is material to the Defence's preparation. [REDACTED]. The Prosecution approached the P-0040's Legal Representative in January 2015 to discuss disclosure.

7. The Legal Representative scheduled a meeting with the victim on [REDACTED] and thereafter informed the Prosecution that P-0040 [REDACTED].

8. [REDACTED]³

9. [REDACTED] Further information on P-0040's security concerns is provided at Confidential, *EX PARTE* Annex B which contains an individual witness security assessment.

Prosecution's Submissions

10. P-0040's identity has never been disclosed to the Defence in *Ntaganda*. Having closely reviewed P-0040's statement, the Prosecution has determined that proposing “non-standard redactions” will not suffice to protect the identity of this individual. Accordingly, the Prosecution requests the Chamber to authorise the provision of a summary of P-0040's statement in lieu of “non-standard redactions”.

³ [REDACTED]

11. [REDACTED]⁴⁵

12. [REDACTED]

13. Confidential, *EX PARTE* Annex C contains an unredacted copy of this statement. Since the relevant information concerning P-0040's security situation was only brought to the Prosecution's attention on [REDACTED], the Prosecution will only be able to propose a comprehensive summary of the statement by 4 March 2015.

14. The Prosecution also seeks limited redactions to P-0040's name and identifying information in the metadata and content of the following documents which are annexes to the statement: [REDACTED]. Confidential, *EX PARTE* Annex D contains copies of these five documents in a format which permits the Chamber to view the information which the Prosecution proposes to redact.⁶

15. In relation to the redactions to metadata in the annexes, the Prosecution seeks authorisation to replace P-0040's name with "P-0040" in the source identity and chain of custody fields.

16. The information material to the Defence's preparation will not be reduced or otherwise impacted by the provision of a summary of the statement, on which the Prosecution will not rely. Neither will the Defence's preparation be impacted by the redactions to the annexes to the statement [REDACTED]. The limited redactions [REDACTED] does not affect their content. Therefore, granting this request will not be unduly prejudicial to, or inconsistent with, the rights of the Accused and a fair and impartial trial.

⁴ [REDACTED]

⁵ [REDACTED]

⁶ The Prosecution is not submitting a chart setting out the reasons for the individual "non-standard redactions" proposed to the annexes to the statement but will do so if the Chamber so requests.

Request

17. Based on the foregoing, the Prosecution asks that the Chamber grant its Request.



Fatou Bensouda,
Prosecutor

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