

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 7 April 2015

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Chang-ho Chung

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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

Public

**Public redacted version of "Prosecution's request for a variation of the Chamber's direction to provide the order of the Prosecution's first witnesses",
7 April 2015, ICC-01/04-02/06-544-Conf-Exp**

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. On 9 October 2014, Trial Chamber VI (“Chamber”) set 2 June 2015 as the date of commencement of trial.¹ On 12 March 2015, the Chamber directed the Office of the Prosecutor (“Prosecution”) to provide, by 7 April 2015, a list indicating, in order, the witnesses it intends to call until 16 July 2015 (“First List”).² On 2 April 2015, the Defence filed a request to postpone the date of trial until 2 November 2015 at the earliest (“Defence Request”).³
2. In light of the Defence Request, the Prosecution requests authorisation to file its First List after the Chamber decides on the Defence Request and, at the earliest, two months before any new date for the commencement of trial (“Request”). This would be in line with the Defence’s proposed timeline for the provision of the First List.⁴

Confidentiality

3. This filing is classified as “Confidential, *EX PARTE*- only available to the Prosecution, VWU and Defence” pursuant to regulation 23*bis*(1) of the Regulations of the Court (“RoC”) since it refers to the content of a filing bearing this classification. The Prosecution will submit a redacted version of this filing.

¹ ICC-01/04-02/06-382-Corr, para.8.

² ICC-01/04-02/06-507, para.6(ii), p.11 (“Order”).

³ ICC-01/04-02/06-541-Conf-Exp-Red2 with public redacted version at ICC-01/04-02/06-541-Red (“Defence Request”). The Chamber provided the Prosecution with a courtesy copy of the filing on 2 April 2015 and the filing was notified on 7 April 2015.

⁴ ICC-01/04-02/06-T-18-CONF-ENG, p.14, lns.1-3 (open session).

Prosecution's Submissions

4. The Prosecution requests authorisation to file its First List after the Chamber's decision on the Defence Request and, at the earliest, two months before any new date for the commencement of trial. The Prosecution makes this request pursuant to article 64(2), 64(6)(e), and 64(6)(f) of the Rome Statute ("Statute"), rule 134(1) of the Rules of Procedure and Evidence and regulation 35 of the RoC.
5. During the 17 February 2015 Status Conference, Counsel for the Accused submitted that the First List should be provided two months in advance of trial.⁵ Were the Prosecution to provide its First List on 7 April 2015 (as directed by the Chamber) and the Defence request to be granted, the Defence would be in possession of the Prosecution's First List almost seven months before the opening of trial.
6. [REDACTED]⁶ [REDACTED]⁷
7. The Prosecution notes that it will oppose the Defence's request for a five-month delay to start trial, or to have the opening statements in June 2015 with a break in the trial proceedings thereafter. However, given that currently "the Defence is plainly not able to be ready for the presentation of the Prosecution's Case immediately following the Parties' opening statements scheduled for 2 June 2015",⁸ the Prosecution may not oppose either starting on

⁵ ICC-01/04-02/06-T-18-CONF-ENG, p.14, lns.1-3 (open session).

⁶ ICC-01/04-02/06-537-Conf-Exp, para.25 with confidential redacted *ex parte* version at ICC-01/04-02/06-537-Conf-Exp-Red, para.25 and public redacted version at ICC-01/04-02/06-537-Red2, para.25.

⁷ ICC-01/04-02/06-537-Conf-Exp, para.25 with confidential redacted *ex parte* version at ICC-01/04-02/06-537-Conf-Exp-Red, para.25 and public redacted version at ICC-01/04-02/06-537-Red2, para.25.

⁸ Defence Request, para.2.

2 June 2015 and proceeding at a reduced pace, or delaying the start of trial (including opening statements) for a more limited time.

Relief Requested

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



Fatou Bensouda,
Prosecutor

Dated this 7th day of April 2015
At The Hague, The Netherlands