

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 16 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
with Confidential 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

**Victims Participation and Reparations
Section Other**

Introduction

1. The Office of the Prosecutor (“Prosecution”) provides notice of the disclosure of incriminatory evidence pursuant to articles 64(3)(c) and 67(1)(a) and (b) of the Rome Statute and of material falling within rule 77 of the Rules of Procedure and Evidence.

Procedural background

2. On 16 February 2015, the Prosecution filed an application for delayed disclosure, wherein it requested, *inter alia*, the delayed disclosure of the identity of Witnesses P-0806 and P-0911, as well as a variation of the time limit of 2 March 2015 to disclose the audio recordings and transcriptions of P-0907 and P-0911’s article 55(2) interviews until they were completed and the Prosecution had implemented the necessary standard redactions.¹
3. On the same day, the Prosecution requested, *inter alia*, authorisation from Trial Chamber VI (“Chamber”) to apply redactions to the photographs of eight vulnerable witnesses and to disclose anonymous summaries of the statements of Witnesses P-0013, P-0044 and P-0816 *in lieu* of the disclosure of their identity and statements.² On 2 March 2015, the Prosecution further requested the Chamber’s authorisation to disclose an anonymous summary of the statement of Witness P-0040.³
4. On 2 April 2015, the Chamber issued its “Decision on Prosecution application for delayed disclosure”, authorising the delayed disclosure of the identity of Witness P-0911 and granting an extension of time for the disclosure of the audio recordings and transcriptions of the interview of Witness P-0907. The

¹ ICC-01/04-02/06-461-Red2, paras.24-28, 37-39, 42-44 and 53-56.

² ICC-01/04-02/06-462-Red2, paras.27-33 and 34-47.

³ ICC-01/04-02/06-492-Red.

Chamber rejected the Prosecution's request for the delayed disclosure of the identity of Witness P-0806.⁴

5. On 7 April 2015, the Chamber rejected the Prosecution's request for authorisation to apply redactions to the photographs of eight vulnerable witnesses. It authorised the non-disclosure of the identity of Witnesses P-0013, P-0044 and P-0816, but ordered the Prosecution to disclose redacted versions of their statements.⁵ On 8 April 2015, the Chamber authorised the non-disclosure of Witness P-0040's identity, but ordered that a redacted version of his statement be disclosed.⁶

Disclosure of evidence

6. On 10 April 2015, the Prosecution disclosed a total of 77 items to the Defence, including 56 items as incriminatory evidence and 21 items pursuant to rule 77.
7. As ordered by the Chamber in its "Decision on Prosecution application for delayed disclosure",⁷ the Prosecution re-disclosed the statements of Witnesses P-0758, P-0761, P-0773 and P-0806, having lifted the redactions to the identity of Witness P-0806. Additionally, and although the Chamber had granted the Prosecution's request for the delayed disclosure of the identity of Witness P-0911, the Prosecution was able to disclose the identity of this witness on 10 April 2015, because the necessary protective measures were in place. Consequently, it disclosed 15 items provided by this witness as well as lesser redacted versions of the two previously disclosed summaries of his interview, having lifted redactions to identifying information. The Prosecution intends to disclose the transcripts of P-0911's interview on 17 April 2015.

⁴ ICC-01/04-02/06-537-Red2, paras.27-31, 40-47 and 48-51.

⁵ ICC-01/04-02/06-545-Red2, paras.22-29 and 60-69.

⁶ ICC-01/04-02/06-550-Red, paras.11-16.

⁷ ICC-01/04-02/06-537-Red2, paras.27-31, 40-47 and 48-51.

8. In accordance with the Chamber's "Decision on the Prosecution request for redactions",⁸ the Prosecution disclosed redacted versions of the statements of Witnesses P-0013, P-0044 and P-0816 as well as annexes and documents related to the statement of P-0816.⁹ The Prosecution also re-disclosed photographs or documents containing photographs of Witnesses P-0018, P-0019, P-0113, P-0758, P-0883, P-0875, P-0888 and P-0898, having now lifted the redactions previously applied to the images depicting these witnesses. In accordance with the Chamber's "Decision on Prosecution application for authorisation to provide a summary of Witness P-0040's statement and to apply redactions to the statement's annexes",¹⁰ the Prosecution disclosed a redacted version of the statement of Witness P-0040 as well as of three annexes thereto.

9. Lastly, the Prosecution disclosed the transcripts of the first part of the interview of Witness P-0907. As authorised by the Chamber,¹¹ the Prosecution will disclose the second and final part of the transcripts of this interview by 30 April 2015.

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

⁸ ICC-01/04-02/06-545-Red2, paras.22-29 and 60-69.

⁹ The Prosecution notes that the summaries of these statements had already been disclosed on 17 March 2015.

¹⁰ ICC-01/04-02/06-550-Red, paras.11-16.

¹¹ ICC-01/04-02/06-537-Red2, para.51.

Confidentiality

11. Pursuant to regulation 23*bis* (1) of the Regulations of the Court, the annex to this document is classified as confidential because it references disclosed materials designated as such.



Fatou Bensouda,
Prosecutor

Dated this 16th day of April 2015
At The Hague, The Netherlands