

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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Date: 18 May 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

Prosecution response to “Submission on behalf of Mr Ntaganda in relation to possible *in situ* hearings”

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 Defence requests that the Parties be involved in developing the outreach strategy for the possible *in situ* hearings. In particular, it requests that the Parties (i) be consulted and be present in face to face meetings with relevant groups to prepare the ground for *in situ* hearings and (ii) be consulted in the selection of excerpts or the preparation of summaries from the *in situ* proceedings for outreach purposes ("Defence Request"). The sole justification the Defence provides is to "ensure the fairness of the strategy and the equality of treatment of both parties"¹, without further explanation.
2. The Prosecution objects to the Defence Request. The Registry is a neutral organ of the Court and there has been no indication that its outreach strategy will be unfair to the Parties or the victims, either in providing advance information to relevant groups or in the preparation of summaries of the opening statements. Nor would it be desirable for the Parties to be involved in outreach in this case.

Procedural History

3. On 2 February 2015, the Registry filed its "Registry revised feasibility report on trial *in situ*".²
4. On 11 March 2015, the Registry filed its "Addendum to 'Registry revised feasibility report on trial *in situ*'".³
5. On 22 April 2015, the Chamber held a status conference during which *in situ* hearings for the opening statements were discussed. The Defence made its observations on the Registry's feasibility report and further requested to

¹ ICC-01/04-02/06-571, para.9.

² ICC-01/04-02/06-438.

³ ICC-01/04-02/06-505-Conf.

participate in the Registry's outreach strategy.⁴ The Chamber directed the Defence to make its submissions on the matter in writing.⁵

6. On 24 April 2015, the Defence filed its "Submission on behalf of Mr Ntaganda in relation to possible *in situ* hearings."⁶

Submissions

7. The Defence provides no explanation or basis for its suggestion that the Registry will not be fair to the Parties or the proceedings in developing the outreach strategy for the possible *in situ* hearings.⁷ The Registry is neutral and thus stands in a better position to develop an outreach strategy and to communicate it to the relevant communities.
8. As to the request that the Parties be consulted and be present during meetings with the affected communities to prepare the ground before the *in situ* proceedings,⁸ the Defence also fails to explain what its contribution to these meetings would be and how it will assist the outreach to the affected communities.
9. The Prosecution submits that it is essential that a neutral organ, and not the Parties, be engaged in outreach to these communities. The conflict in Ituri was an ethnic conflict, mainly between and the Hema and the Lendu ethnic groups, and these ethnic groups still live alongside each other in Ituri. As the trial of Bosco NTAGANDA approaches, there is a potential risk that tension builds up between the communities which were affected by this conflict.

⁴ ICC-01/04-02/06-T-19-ENG, p.54, l.23 to p.55, l.9, p.55, l.19 to p.56, l.11.

⁵ ICC-01/04-02/06-T-19-ENG, p.56, l.12-15.

⁶ ICC-01/04-02/06-571.

⁷ ICC-01/04-02/06-T-19-ENG, p.55, l.1-8; ICC-01/04-02/06-571, para.9, 11.

⁸ ICC-01/04-02/06-T-19-ENG, p.55, l.19-23 ; ICC-01/04-02/06-571, para.10.

10. On the request that the Parties be consulted in the selection of audio and/or video excerpts or summaries of the possible *in situ* hearings,⁹ again this is a straightforward exercise that falls within the competence of the Registry. In its feasibility report, the Registry envisages that there will be three cameras in the *in situ* courtroom; it will set up a “media-tent” where local and international journalists would be able to follow the live broadcast, and from where they could broadcast the opening statements live through the radio or by other audio-visual means; moreover the Registry will provide the recording of the court session to the media after each court session.¹⁰ It is unnecessary for the Parties to be involved in this process.

Conclusion

11. The Prosecution requests that the Defence Request be rejected.



Fatou Bensouda,
Prosecutor

Dated this 18th day of May 2015
At The Hague, The Netherlands

⁹ ICC-01/04-02/06-T-19-ENG, p.55, l.24 to p.56, l.7; ICC-01/04-02/06-571, para.11.

¹⁰ ICC-01/04-02/06-505, para.6.