

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **2 June 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 request to file a reply to the "Corrected version of 'Response on behalf of Mr Ntaganda to Prosecution Request to vary the time limit for disclosure of [REDACTED]'s recent interview'",
29 May 2015, ICC-01/04-02/06-614-Conf**

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 the Victims

Ms Sarah Pellet
Mr Dmytro Suprun

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(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
Section**

Other

Prosecution's Submissions

1. Pursuant to regulation 24(5) of the Regulations of the Court ("RoC"), the Office of the Prosecutor ("Prosecution") requests leave to file a reply to the "Corrected version of 'Response on behalf of Mr Ntaganda to Prosecution Request to vary the time limit for disclosure of [REDACTED]'s recent interview'" ("Response").¹
2. On 18 May 2015, the Prosecution requested a variation of the 2 March 2015 disclosure deadline to rely upon the audio-recording of an interview with [REDACTED] which was conducted on [REDACTED] pursuant to article 55(2) of the Rome Statute ("Motion").²
3. On 28 May 2015, the Defence filed its Response in which it makes a number of arguments to which the Prosecution seeks leave to reply.
4. First, the Defence argues that good cause has not been shown because the Prosecution could have sought the extension of the time limit prior to its expiration.³ The Prosecution seeks to reply to this assertion by providing its view as to whether a request for an extension of time can be made *before* an item of evidence, in this case the audio-recorded interview, comes into existence.
5. Second, the Defence states that the Prosecution should have filed a request for delayed disclosure before 16 February 2015.⁴ The Prosecution seeks to reply to the issue as to whether the disclosure of an interview with [REDACTED], whose

¹ ICC-01/04-02/06-612-Conf with public redacted version at ICC-01/04-02/06-612-Corr-Red.

² ICC-01/04-02/06-598-Conf with public redacted version at ICC-01/04-02/06-598-Red.

³ Response, para.16.

⁴ Response, paras.15, 17.

identity was known to the Defence from the outset, fell within the scope of “delayed disclosure” as the term has been used in the present case.⁵

6. The Prosecution’s reply would assist the Chamber in its determination. Should the Chamber grant leave, the Prosecution will set out its substantive submissions in its reply without repeating any arguments contained in its Motion.
7. Finally, the Prosecution notes that it will provide the audio-recording and transcript of [REDACTED]’s interview to the Defence by 1 June 2015.⁶

Confidentiality

8. This request is classified as “Confidential” under regulation 23bis(2) of the RoC, consistent with the classification of related filings. The Prosecution will file a redacted version of this filing.

Request

9. Based on the foregoing, and pursuant to regulation 24(5) of the RoC, the Prosecution requests that the Chamber grant leave to file a reply.



Fatou Bensouda,
Prosecutor

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

⁵ See, e.g. ICC-01/04-02/06-T-13-ENG p.13, ln.21 – p.14, ln.2, p.26, lns.4-23 (open session); ICC-01/04-02/06-537-Conf-Exp, para.15 with confidential redacted *ex parte* version at ICC-01/04-02/06-537-Conf-Exp-Red, para.15 and public redacted version at ICC-01/04-02/06-537-Red2, para.15.

⁶ See Response, para.22.