

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **5 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's 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'",
5 June 2015, ICC-01/04-02/06-627-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

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
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States' Representatives

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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Prosecution's Submissions

1. The Office of the Prosecutor ("Prosecution") replies to the Defence's Response¹ to the Prosecution's request to vary the time limit for disclosure of [REDACTED]'s recent interview ("Prosecution's Request").²
2. This reply addresses two issues. First, the Prosecution could not have requested an extension of time prior to the 2 March 2015 disclosure deadline since the audio-recording of the interview with [REDACTED] only came into existence on [REDACTED].³
3. The Chamber has previously considered a Prosecution request for an extension of the time limit in relation to items which had not yet fallen within the Prosecution's disclosure obligations as "premature".⁴ Similarly, [REDACTED]'s audio-recorded interview of [REDACTED] had not fallen within the Prosecution's disclosure obligations by the 2 March 2015 disclosure deadline since it was not yet in existence. Therefore, a request for an extension of time prior to 2 March 2015 would have been premature. Moreover, requests for an extension of the time limit *may* not be required for additions to the Prosecution's List of Evidence, further to the Chamber's decision on amendments to the List of Evidence.⁵
4. Second, "delayed disclosure" would not have been a proper basis for the Prosecution's Request.⁶
5. Pursuant to rule 81(4) of the Rules of Procedure and Evidence, delayed disclosure relates to the non-disclosure of the identity of witnesses, victims and members of

¹ ICC-01/04-02/06-612-Conf with public redacted version at ICC-01/04-02/06-612-Corr-Red ("Defence Response"). Trial Chamber VI ("Chamber") granted the Prosecution leave to reply to the Defence Response on 3 June 2015, *see* ICC-01/04-02/06-623-Conf with public redacted version at ICC-01/04-02/06-623-Red, ICC-01/04-02/06-614-Conf with public redacted version at ICC-01/04-02/06-614-Red.

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

³ *Contra* Defence Response, para.16.

⁴ ICC-01/04-02/06-452, para.15.

⁵ ICC-01/04-02/06-T-19-ENG, p.11, ln.7 – p.12, ln.3 (open session).

⁶ *Contra* Defence Response, paras.15, 17.

their families prior to the commencement of the trial to protect their safety. This is also the manner in which the Chamber,⁷ Prosecution⁸ and the Defence⁹ have interpreted and applied this measure in the present case.

6. [REDACTED]'s identity was known to the Defence since 2013. Accordingly, delayed disclosure is not an applicable measure for the Prosecution's Request.

Confidentiality

7. This request is classified as "Confidential" under regulation 23bis(2) of the Regulations of the Court, consistent with the classification of related filings. The Prosecution will file a redacted version of this filing.

Request

8. Based on the foregoing, the Prosecution asks that the Chamber grant the relief requested in the Prosecution's Request.



Fatou Bensouda,
Prosecutor

Dated this 5th day of June 2015
At The Hague, the Netherlands

⁷ ICC-01/04-02/06-537-Conf-Exp, paras.15-16 with confidential redacted *ex parte* version at ICC-01/04-02/06-537-Conf-Exp-Red, paras.15-16 and public redacted version at ICC-01/04-02/06-537-Red2, paras.15-16.

⁸ See, e.g., ICC-01/04-02/06-461-Conf-Exp, paras.4-5 with confidential redacted version at ICC-01/04-02/06-461-Conf-Red, paras.4-5 and public redacted version at ICC-01/04-02/06-461-Red2, paras.4-5.

⁹ See, e.g., ICC-01/04-02/06-T-13-ENG, p.26, lns.4-23 (open session).