

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **15 July 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***

**Confidential, *ex parte* – only available to the Chamber, Registry, Prosecution and
Defence**

**Expedited Request for Disclosure of Audio-Recordings of Non-Privileged
Telephone Calls of Mr. Ntaganda**

Source: Defence Team of Mr Bosco Ntaganda

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

Me Stéphane Bourgon

Me Luc Boutin

Mr Christopher Gosnell

Legal Representatives of Victims

Legal Representatives of 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**

Expedited Request for Disclosure of Audio-Recordings of Non-Privileged Telephone Calls of Mr. Ntaganda

1. Bosco Ntaganda requests disclosure of the audio-recordings of non-privileged telephone conversations that have been either translated and/or summarized by the Registry and submitted to the Trial Chamber as annexes to the "First Report on the post-factum review of the phone conversations made by Mr. Ntaganda"¹ and the "Second Report on the post-factum review of the phone conversations made by Mr. Ntaganda."²
2. Such disclosure will permit the Defence to verify the accuracy of the translations and one transcription³ of those audio-recordings. Mr. Ntaganda has been unable to recognize many of the words and expressions attributed to him.⁴ This inability, without being able to refresh his recollection, is unsurprising given that the conversations took place well over a year ago. Without the audio-files, the accuracy of the translations and/or summaries that have been provided to the Trial Chamber cannot be double-checked, and no explanations can be provided about the meaning of certain words and expressions.
3. Disclosure of the audio will impose no significant, let alone undue, burden on the Registry. The audio-files must be in digital form and are presumably well-organized and labelled. These digital audio-files can be saved onto a CD or in some other format that can be conveniently supplied to Mr. Ntaganda for his review at the UNDU. The number of audio-files will also not be numerous or

¹ ICC-01/04-02/06-504-Conf-Exp ("First Report").

² ICC-01/04-02/06-607-Conf-Exp ("Second Report").

³ ICC-01/04-02/06-563-Conf-Exp-Anx 3.

⁴ ICC-01/04-02/06-533-Conf-Exp, para. 13 ("While Mr. Ntaganda did recognize the telephone conversations included in the Annexes as being his own in general, on numerous occasions, he was not able to recognize the words found in the Annexes as being the words and/or expressions he would have used.").

large, as this request is limited to those conversations that have been translated and/or summarized and communicated to the Trial Chamber as annexes to the First Report and Second Report.

4. No witness protection or other security concern is engaged by the present request. The material requested is the audio-recording of conversations to which Mr. Ntaganda was himself a participant.
5. In light of the urgency of matters that will be adjudicated, in part, based on the translations of Mr. Ntaganda's purported words,⁵ the Trial Chamber is respectfully requested to: (i) order the Registry to provide this disclosure without awaiting any response from the Prosecution; or in the alternative (ii) require the Prosecution to respond to the present request within 24 hours.

CONFIDENTIALITY

6. Pursuant to Regulation 23bis (1) of the Regulations of the Court, this Defence Expedited Request is submitted on an *ex parte* basis – only available to the Chamber, Registry, Prosecution and Defence, as it relates to filings bearing the same classification.

RESPECTFULLY SUBMITTED ON THIS 15TH DAY OF JULY 2015



Me Stéphane Bourgon, Counsel for Bosco Ntaganda

The Hague, The Netherlands

⁵ ICC-01/04-02/06-697-Exp-Red ("The Chamber considers that it is appropriate at this stage to rule on the restrictions, if any, to be imposed on Mr. Ntaganda, before the start of the evidentiary phase of the trial.").