

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **16 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, Prosecution and Defence

Application on behalf of Mr Ntaganda seeking leave to reply to the “Prosecution Response to the ‘Request on behalf of Mr Ntaganda seeking a variation of time limit to file the Defence consolidated response on the requested restrictions on Mr Ntaganda’s communications with non-privileged contacts’”

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

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**

Further to the "*Prosecution Response to the 'Request on behalf of Mr Ntaganda seeking a variation of time limit to file the Defence consolidated response on the requested restrictions on Mr Ntaganda's communications with non-privileged contacts'*" submitted by the Office of the Prosecutor ("Prosecution") on 15 July 2015 ("Prosecution Response"),¹ Counsel representing Mr Ntaganda ("Defence") hereby submit this:

Application on behalf of Mr Ntaganda seeking leave to reply to the "Prosecution Response to the 'Request on behalf of Mr Ntaganda seeking a variation of time limit to file the Defence consolidated response on the requested restrictions on Mr Ntaganda's communications with non-privileged contacts'"

"Defence Application"

INTRODUCTION

1. On 15 July 2015, the Prosecution responded to the "*Request on behalf of Mr Ntaganda seeking a variation of time limit to file the Defence consolidated response on the requested restrictions on Mr Ntaganda's communications with non-privileged contacts'*" ("Defence Request") submitted on 9 July 2015.²
2. Pursuant to Regulation 24(5) of the Regulations of the Court ("RoC"), the Defence respectfully requests Trial Chamber VI ("Chamber") to grant the Defence leave to reply to the Prosecution Response.
3. For the reasons stated therein, the Defence posits that a reply is necessary with a view to providing the Chamber with all necessary information to adjudicate the Defence Request.

SUBMISSIONS

4. Should leave to reply be granted, the Defence will provide submissions on the following issues.

¹ ICC-01/04-02/06-724-Conf-Exp.

² ICC-01/04-02/06-707-Conf-Exp.

5. First, the Defence will provide the reasons why the Prosecution Response must be considered in the light of a meeting between the Prosecution and the Defence held on 7 July 2015, during which the Prosecution undertook not to oppose a Defence request for variation of the time limit; although the submission dates then discussed were different than that requested in the Defence Request.
6. Second, in reply to paragraph 18 of the Prosecution Response, the Defence will explain why the Prosecution is incorrect in suggesting that the time spent to review the Registry's second report³ with a view to proposing redactions to the same shows that the Defence has had ample opportunity to prepare its final observations. In particular, the Defence will explain the difference between analysing the Registry's second report for the purpose of identifying redactions, on the one hand, and analysing the same with a view to providing final observations on the merits of the requested restrictions on Mr Ntaganda's communications, on the other hand.
7. Third, in reply to paragraph 19 of the Prosecution Response, the Defence will explain why the time needed for the additional associate counsel and additional legal assistant to review the material in support of the requested restrictions on Mr Ntaganda's communications, is unrelated to the fact that other members of the Defence team are already acquainted with the proceedings. In particular, the Defence will highlight that it was authorised to recruit one additional associate counsel and one additional legal assistant precisely for the purpose of enabling the other members of the Defence team to exclusively focus their time on trial preparations.
8. Fourth, in reply to paragraph 23 of the Prosecution Response, the Defence will explain the circumstances which led it to raise concerns regarding the accuracy of the transcripts in Kinyarwanda. The Defence will also explain

³ ICC-01/04-02/06-607-Conf-Exp.

why the Prosecution is incorrect in suggesting that the Registry's addendum⁴ satisfactorily solves all translation issues.

9. Lastly, the Defence will explain why the Prosecution arguments set out in paragraphs 16, 20, 21 and 26 to 28 of the Prosecution Response are wholly unconvincing and should be disregarded.

CONFIDENTIALITY

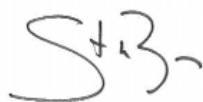
10. Pursuant to Regulations 23bis (1) and (2) RoC, this Defence Application is submitted on a confidential *ex parte* basis – only available to the Chamber, Prosecution and Defence – as it refers to filings bearing the same classification.

RELIEF SOUGHT

In light of the above submissions and pursuant to Regulation 24(5) RoC, the Defence respectfully requests the Chamber to:

GRANT the Defence leave to file a reply to the Prosecution Response.

RESPECTFULLY SUBMITTED ON THIS 16TH DAY OF JULY 2015



Me Stéphane Bourgon, Counsel for Bosco Ntaganda

The Hague, The Netherlands

⁴ ICC-01/04-02/06-563-Conf-Exp.