

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: 20 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 Prosecution, Defence
and Registry**

**Prosecution's Response to the Defence's "Expedited Request for Disclosure of
Audio-Recordings of Non-privileged Telephone Calls of Mr. Ntaganda"**

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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**Unrepresented Applicants
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**The Office of Public Counsel for the
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REGISTRY

Registrar

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Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
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Other

Introduction

1. The Office of the Prosecutor ("Prosecution") does not oppose the Defence request for access to the audio-recordings of non-privileged telephone conversations made by the Accused which have been translated and summarised and/or transcribed by the Registry ("Defence Request").¹ However, the Prosecution may request access to these audio-recordings should the Defence contest the accuracy of the translations, summaries and transcripts prepared by the Registry.

Confidentiality

2. This response is classified as "Confidential, *EX PARTE* – only available to the Prosecution, Defence and Registry" pursuant to regulation 23bis(2) of the Regulations of the Court, consistent with the classification of the Defence Request. The Prosecution submits that it is appropriate to file a public redacted version of the Defence Request and this filing.

Procedural History

3. On 10 March 2015, the Registry transmitted to Trial Chamber VI ("Chamber"), *ex parte* Defence and Registry only, the "First Report on the *post-factum* review of the phone conversations made by Mr Ntaganda" ("First Report").²
4. On 29 April 2015, the Chamber directed the Registry to make the First Report available to the Prosecution, together with annexes 1, 2, 4, 5 and 6, without redactions, as well as annexes 3, 8 and 9, with redactions. The Chamber also directed the Registry to make available to the Prosecution the Registry's addendum, without redactions, together with redacted versions of its annexes.³

¹ ICC-01/04-02/06-719-Conf-Exp, para.1.

² ICC-01/04-02/06-504-Conf-Exp.

³ ICC-01/04-02/06-578-Conf-Exp.

5. On 10 July 2015, the Chamber ordered the Registry to redact the "Second Report on the *post-factum* review of the phone conversations made by Mr Ntaganda" ("Second Report") and accompanying annexes and to make them available to the Prosecution.⁴
6. On 15 July 2015, the Defence filed an "Expedited Request for Disclosure of Audio-Recordings of Non-Privileged Telephone Calls of Mr. Ntaganda."⁵

Prosecution's Submissions

7. The Prosecution does not oppose the Defence Request for disclosure of the audio-recordings of non-privileged telephone conversations of the Accused which have been translated, transcribed and/or summarised by the Registry, and submitted to the Chamber as annexes to the First Report and Second Report.
8. However, the Prosecution reserves the right to request access to the same audio-recordings, with redactions imposed by the Chamber, should the Defence dispute the accuracy of the translations, summaries and transcripts, and ultimately the grounds for restriction of communications.



Fatou Bensouda, Prosecutor

Dated this 20th day of July 2015
At The Hague, the Netherlands

⁴ ICC-01/04-02/06-710-Conf-Exp-Red.

⁵ ICC-01/04-02/06-719-Conf-Exp.