



Original: **English**

No.: ICC-01/04-02/06
Date: 30 September 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

Urgent motion on behalf of Mr Ntaganda requesting an extension of the time limit to prepare public redacted versions of underlying filings pursuant to the Decision on Prosecution requests to impose restrictions on Mr Ntaganda's 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

Ms Sarah Pellet
Mr Dmytro Suprun

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 “*Decision on Prosecution requests to impose restrictions on Mr Ntaganda’s contacts*” issued by Trial Chamber VI (“Chamber”) on 18 August 2015 (“Decision”),¹ Counsel representing Mr Ntaganda (“Defence”) hereby submit this:

Urgent motion on behalf of Mr Ntaganda requesting an extension of the time limit to prepare public redacted versions of underlying filings pursuant to the Decision on Prosecution requests to impose restrictions on Mr Ntaganda’s contacts

“Defence Motion”

INTRODUCTION

1. On 18 August 2015, the Chamber rendered its Decision, whereby it directed the parties to prepare, in consultation with each other, public redacted versions of the various filings referred to in the procedural history of the Decision. These filings include 11 Prosecution filings (“Prosecution Underlying Filings”) as well as 11 Defence filings (“Defence Underlying Filings”).²
2. On 25 September 2015, the Prosecution provided the Defence with the proposed public redacted versions of its Prosecution Underlying Filings.³
3. The Defence submits that good cause exists – within the meaning of Regulation 35 of the Regulations of the Court – justifying a limited extension of the time limit to submit public redacted versions of both the Prosecution and Defence Underlying Filings.

SUBMISSIONS

4. To this day, due to time and resource constraints, the Defence has not been able to review the public redacted versions of the Prosecution Underlying Filings received on 25 September 2015 as well as to liaise with the Prosecution

¹ ICC-01/04-02/06-785.

² Decision, paras.1-22.

³ Email from Nicole Samson to Stéphane Bourgon, 25 September 2015, 9:11.

with a view to discussing the proposed redactions. For the same reasons, the Defence has been unable to provide the Prosecution with proposed public redacted versions for its own Defence Underlying Filings.

5. Indeed, the following activities, *inter alia*, have prevented the Defence from being able to prepare the public redacted versions of its Defence Underlying Filings:
 - a. The recruitment of a new Defence investigator and a new Defence resource person;
 - b. Preparing for opening statements;
 - c. Preparing for the first evidentiary block; and
 - d. Preparing for and organizing investigation activities to be completed by the new Defence investigator and the Defence resource person.
6. The Defence emphasizes the importance it attaches to the principle of publicity of proceedings.⁴ In this regard, the Defence respectfully submits that it is of the utmost importance that the parties be allotted sufficient time, as initially requested,⁵ to review both the Prosecution and Defence Underlying Filings and to liaise with each other in order to avoid litigation as to the appropriate redactions to apply.
7. Granting an extension of the time limit to submit public redacted versions of both the Prosecution and Defence Underlying Filings will not cause any prejudice.
8. In this regard, the Defence underscores that the various matters raised in the Prosecution and Defence Underlying Filings have all been ruled upon by the Chamber in its Decision. Moreover, the public redacted version of the

⁴ ICC-01/04-02/06-770-Conf, para.10.

⁵ ICC-01/04-02/06-770-Conf, para.10.

Decision already allows the public to be informed of the proceedings related to the Prosecution's requests to impose restrictions on Mr Ntaganda's contacts.

9. Further to *inter partes* discussions, the Defence respectfully submits that the Prosecution could submit public redacted versions of its Prosecution Underlying Filings as soon as the parties have had a chance to meet and discuss the proposed redactions. The parties have agreed to meet in the coming days for this purpose, which could allow the Prosecution to submit public redacted versions of its Prosecution Underlying Filings by 9 October 2015. Moreover, the Defence notes that for at least four of the Prosecution Underlying Filings,⁶ the parties already agree on the proposed public redacted versions and that these could be submitted in all likelihood by Friday 2 October 2015.
10. As for the Defence Underlying Filings, considering that the second evidentiary block will commence on 19 October 2015, the Defence respectfully requests that the time limit to submit public redacted versions of these filings be extended until 27 November 2015, *i.e.* one week after the end of the second evidentiary block.
11. These proposed dates would allow sufficient time for the parties to liaise on the appropriate redactions to apply to both the Prosecution and Defence Underlying Filings.

RELIEF SOUGHT

In light of the above submissions, the Defence respectfully requests the Chamber to:

GRANT an extension of the time limit until 27 November 2015 to file public redacted versions of the Defence Underlying Filings; and

⁶ Namely filings 727-Conf-Exp-Red, 735-Conf-Exp, 775-Conf-Exp and 780-Conf-Exp.

GRANT an extension of the time limit until 9 October 2015 to file public redacted versions of the Prosecution Underlying Filings.

RESPECTFULLY SUBMITTED ON THIS 30TH DAY OF SEPTEMBER 2015

A handwritten signature in black ink, appearing to read 'StB' with a flourish at the end.

Me Stéphane Bourgon, Counsel for Bosco Ntaganda

The Hague, The Netherlands