

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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Date: 30 May 2016

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
with Confidential Annex A**

Prosecution's Communication of the Disclosure of Evidence

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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Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section Other**

Introduction

1. The Office of the Prosecutor ("Prosecution") provides notice of the disclosure of incriminating evidence pursuant to articles 64(3)(c) and 67(1)(a) and (b) of the Rome Statute ("the Statute"), evidence pursuant to article 67(2) of the Statute, as well as material falling within rule 77 of the Rules of Procedure and Evidence ("the Rules").

Disclosure of evidence

2. On 18, 23, 24 and 26 May 2016, the Prosecution disclosed a total of 117 items, including 67 items as incriminating evidence, six items pursuant to article 67(2) of the Statute and 44 items under the provision of rule 77.
3. The Prosecution formally disclosed three documents which were previously appended as annexes to Prosecution filings¹, an article written by Witness P-0933 which was provided in court during his testimony² and the witness preparation session log and disclosure note of Witness P-0887 which was also provided in court during the testimony of this witness.³
4. The Prosecution re-disclosed the lesser redacted versions of 24 documents⁴ and re-disclosed another 27 documents, having lifted all redactions previously applied to them.⁵

¹ These documents were appended to the "Prosecution's urgent request for immediate suspension of Defence investigators and other measures", ICC-01/04-02/06-658-Conf-Exp-Anx5 filed on 19 June 2015 (DRC-OTP-2086-0617 and DRC-OTP-2086-0647) and the "Prosecution's fifteenth request for in-court protective measures" (ICC-01/04-02/06-1332-Conf-AnxB), filed on 23 May 2016 (DRC-OTP-2092-0338).

² DRC-OTP-2092-0170.

³ DRC-OTP-2092-0234.

⁴ These documents are the following: 2 statements and 2 documents related to P-0018; 3 statements related to P-0113; 4 transcribed statements, 2 statements and 1 annex related to P-0190; 1 investigation note related to P-0315; 1 transcribed statement, 1 screening note and 1 investigation note related to P-0769; 2 witness

5. In addition, the Prosecution re-disclosed two documents previously disclosed as potentially exonerating evidence, having re-classified them as incriminating evidence.⁶
6. Lastly, the Prosecution disclosed 64 items that had not previously been disclosed. These items include: (1) two transcribed statements, five investigation notes and seven documents related to Witness P-0190;⁷ (2) one investigation note related to Witness P-0039;⁸ (3) one investigation note related to Witness P-0315;⁹ (4) six transcripts of testimony in the *Katanga and Ngudjolo case* related to Witness P-0317;¹⁰ (5) four transcribed statements, one investigation note and three documents related to Witness P-0769;¹¹ (6) two documents related to Witness P-0005;¹² (7) one investigation note related to Witness P-0800;¹³ (8) one investigation note related to Witness P-0859;¹⁴ (9) two investigation notes related to Witness P-0877;¹⁵ (10) two investigation notes and two letters related to Witness P-0888;¹⁶ (11) one investigation note and one

statements and 1 screening note related to P-0877; 1 victim application related to P-0887; 1 statement and 1 victim application related to P-0894.

⁵ These documents are the following: 1 report and 1 investigation note related to P-0046; 7 transcribed statements and 1 annex related to P-0190; 1 statement and 2 annexes related to P-0315; 14 transcribed statements related to P-0769.

⁶ These documents are DRC-OTP-0154-0441 (which is the duplicate of DRC-OTP-2003-0497, a Human Rights Watch report previously disclosed as incriminating evidence) and DRC-OTP-0163-0611 (which is the French translation of the same report).

⁷ DRC-OTP-2086-0617, DRC-OTP-2086-0647, DRC-OTP-2078-2415, DRC-OTP-2087-0649, DRC-OTP-2089-0440, DRC-OTP-2091-0099, DRC-OTP-2092-0230, DRC-OTP-2089-0425, DRC-OTP-2092-0342, DRC-OTP-2092-0343, DRC-OTP-2092-0344, DRC-OTP-2092-0345, DRC-OTP-2092-0346 and DRC-OTP-2092-0347.

⁸ DRC-OTP-2092-0227.

⁹ DRC-OTP-2092-0817. The Prosecution will add this item to its List of Evidence.

¹⁰ DRC-OTP-2092-0371, DRC-OTP-2092-0457, DRC-OTP-2092-0531, DRC-OTP-2092-0613, DRC-OTP-2092-0684 and DRC-OTP-2092-0755. These transcripts are publicly available on the ICC website. The Prosecution will add these items to its List of Evidence.

¹¹ DRC-OTP-2086-0540, DRC-OTP-2086-0552, DRC-OTP-2086-0555, DRC-OTP-2092-0350, DRC-OTP-2090-0531, DRC-OTP-2079-0283, DRC-OTP-2079-0284 and DRC-OTP-2080-0076.

¹² DRC-OTP-0113-0164 and DRC-OTP-0113-0183.

¹³ DRC-OTP-2090-0004.

¹⁴ DRC-OTP-2090-0002.

¹⁵ DRC-OTP-2069-0120, DRC-OTP-2092-0367.

¹⁶ DRC-OTP-2076-0063, DRC-OTP-2092-0314, DRC-OTP-2082-0438 and DRC-OTP-2082-0479. The Prosecution will add these items to its List of Evidence.

identity card related to Witness P-0894¹⁷; (12) four investigation notes related to Witness P-0899;¹⁸ (13) six investigation notes related to various witnesses;¹⁹ and (14) nine other documents.²⁰ The Prosecution will add 14 of these newly disclosed items to its List of Evidence.

7. Following its standard practice, the Prosecution transmitted these items to the Registry for uploading into e-court, which gives the Chamber, Parties and participants access to the materials.
8. The Prosecution appends the list of the evidence disclosed in Confidential Annex A.

Confidentiality

9. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, the annex to this document is classified as confidential because it references material that was disclosed confidentially.



Fatou Bensouda
Prosecutor

Dated this 30th day of May 2016
At The Hague, The Netherlands

¹⁷ DRC-OTP-2092-0306 and DRC-OTP-2078-2565.

¹⁸ DRC-OTP-2077-0067, DRC-OTP-2078-2349, DRC-OTP-2087-0022 and DRC-OTP-2092-0246.

¹⁹ DRC-OTP-2089-1371, DRC-OTP-2092-0229, DRC-OTP-2092-0319, DRC-OTP-2092-0321, DRC-OTP-2092-0323 and DRC-OTP-2092-0325.

²⁰ DRC-OTP-0072-0309, DRC-OTP-0113-0210, DRC-OTP-2087-1512, DRC-OTP-2089-0444, DRC-OTP-2090-0576, DRC-OTP-2092-0333, DRC-OTP-2081-0507, DRC-OTP-2081-0589 and DRC-OTP-2082-0021. The last 3 items will be added to the List of Evidence.