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No.: ICC-01/04-02/06
Date: 16 September 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:

The Office of the Prosecutor

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Detention Section

**Victims Participation and Reparations Other
Section**

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 (“Statute”), material falling within the scope of rule 77 of the Rules of Procedure and Evidence (“Rules”) and disclosure of materials that are in neither of these categories.¹

Disclosure of evidence

2. On 9 September 2016, the Prosecution disclosed a total of 47 items, including 24 items as incriminating evidence, 18 items under the provision of rule 77 and 5 items further to Defence requests where the information did not strictly fall under the provisions of either article 67(2) or rule 77. The Prosecution nonetheless disclosed these and other items in case the information *may*² be material to the Defence.
3. The Prosecution re-disclosed, having lifted certain redactions, (1) the statements of Witnesses P-0301, P-0106, P-0107 and P-0792, (2) two annexes to Witness P-0792’s statement, (3) the screening notes of P-0792 and P-0823, (4) six documents related to P-0154, and (5) one document related to Witness P-0107. The Prosecution also re-disclosed as incriminating evidence two items that had previously been disclosed under a different classification, namely two videos sourced by Witnesses P-0002 and P-0057.
4. The Prosecution disclosed, as incriminating evidence, (1) six photographs related to the exhumations conducted by the Prosecution, (2) the transcript of video DRC-OTP-0103-0008, (3) four documents related to P-0154, (4) the

¹ The courtesy disclosure of materials includes items that do not fall within articles 64(3)(c), 67(1)(a) and (b) and 67(2) of the Statute or rule 77 of the Rules.

² Rule 77 of the Rules refers to “books, documents, photographs and other tangible objects in the possession or control of the Prosecutor, which *are* material to the preparation of the defence [...]” (emphasis added).

witness preparation session log and disclosure note for Witness P-0934, (5) one article provided by Witness P-0937 and (6) a notebook provided by Witness P-0420. The Prosecution will add these items to its list of evidence.

5. The Prosecution further disclosed, under rule 77, (1) three investigation notes, (2) eight documents related to Witness P-0030, and (3) two contracts signed by Witnesses P-0934 and P-0420. Lastly, the Prosecution provided three investigation notes as a courtesy.
6. Consistent with 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.
7. The Prosecution appends the list of the evidence disclosed in Confidential Annex A.

Confidentiality

8. 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 16th day of September 2016
At The Hague, The Netherlands