



Original: English

No.: ICC-01/04-02/06
Date: 22 November 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**

**Addendum to the “Prosecution application under rule 68(3) and regulation 35 to
admit Witness P-0002’s prior recorded testimony and associated material”,
14 November 2016, ICC-01/04-02/06-1631**

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

Ms Fatou Bensouda
Mr James Stewart
Ms Nicole Samson

Counsel for the Defence

Mr Stéphane Bourgon
Mr Christopher Gosnell

Legal Representatives of Victims

Ms Sarah Pellet
Mr Dmytro Suprun

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
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

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Other
Section**

Introduction

1. On 14 November 2016, the Prosecution filed a request under rule 68(3) and regulation 35 to admit Witness P-0002's prior recorded testimony and associated material. This request included references to two documents that the Prosecution considered necessary to understand the materials sought to be admitted.
2. The Prosecution hereby provides the Chamber, Defence and participants with a further document it considers necessary to understand the prior recorded statements of Witness P-0002, namely a certification under rule 68(2)(b)(iii) of the Rules of Procedure and Evidence ("Rules") that comprises a table of four corrections and nine clarifications Witness P-0002 made to his statements and testimony ("Table").

Background

3. On 26 September 2015, having read his prior recorded statement and made thirteen corrections and clarifications to it as detailed in the Table, Witness P-0002 declared that it was true and accurate to the best of his knowledge and recollection, in accordance with the procedure established in rule 68(2)(b)(iii) of the Rules.¹
4. On 14 November 2016, the Prosecution filed a request under rule 68(3) and regulation 35 to admit Witness P-0002's prior recorded testimony and associated material ("Request").²

¹ ICC-01/04-02/06-874-Conf-Exp-AnxI.

² ICC-01/04-02/06-1631-Conf.

Addendum to the Prosecution's Request

5. The Prosecution clarifies that it does not seek to support its Request with Witness P-0002's certification under rule 68(2)(b)(iii) or the corrections and clarifications as detailed in the Table, or to rely on the certification or Table. However, it considers that the corrections and clarifications that he made in the context of this certification, which include four corrections to the materials the Prosecution sought to have admitted under rule 68(3), are required to understand P-0002's prior recorded testimony. Accordingly, the Prosecution submits them to the Chamber and Defence as an addendum to its Request.

6. The Prosecution will provide Witness P-0002 with a copy of the Table as part of his witness preparation materials. He will also be asked to confirm if he has any corrections and clarifications at the end of the ongoing witness preparation session. The Prosecution will include a record of these corrections in the Witness preparation session log and disclosure note for this witness. Further, the Prosecution will elicit these corrections from the witness during his testimony, in accordance with the established practice before this Chamber.

Confidentiality

7. Annex A is classified as "Confidential" pursuant to regulation 23*bis*(1) of the Regulations of the Court because it contains confidential information relating to a protected Prosecution witness.



**Fatou Bensouda,
Prosecutor**

Dated this 22nd day of November 2016
At The Hague, The Netherlands