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No.: ICC-01/04-02/06
Date: 24 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**

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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**Unrepresented Applicants for
Participation/Reparation**

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Counsel Support Section

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Victims and Witnesses Unit

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 none of these categories.¹

Disclosure of evidence

2. On 18 and 22 November 2016, the Prosecution disclosed a total of 612 items, including 601 items as incriminating evidence, 8 items under the provision of rule 77, and 3 items that did not fall under these disclosure categories.
3. The Prosecution re-disclosed, having lifted certain redactions, (1) three documents related to P-0154, (2) the statements of Witnesses P-0761, P-0300, P-0806 and P-0863, (3) an annex to the statement of Witness P-0883, (4) the victim participation form for Witness P-0863, (5) an investigation note related to Witness P-0121 and (6) an investigation note related to Witness P-0761.
4. The Prosecution disclosed as incriminating evidence: (1) a copy of the letter of instructions sent to Witness P-0453, (2) a document related to Witness P-0883, (3) two documents related to Witness P-0761 and (4) 589 audio recordings of non-privileged telephone conversations from the Detention Centre. The Prosecution notes that these recordings are the registered versions of the recordings the Prosecution has reviewed or is in the process of reviewing, which the Prosecution previously indicated it would disclose.² Accordingly, these recordings are not new and the Defence already had access to them *via*

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 See ICC-01/04-02/06-1616, para. 16.

the TRIM folder it was given access to on 7 November 2016.³ These documents will be added to the Prosecution's list of evidence.

5. The Prosecution disclosed, under rule 77: (1) one investigation note, (2) the witness preparation session logs and disclosure notes for Witnesses P-0911 and P-0758, (3) two investigation notes related to Witness P-0758 and P-0806 and (4) a table of expenses for Witness P-0758.
6. Lastly, the Prosecution disclosed as a courtesy the transcript and translation of video DRC-OTP-1017-1482.
7. 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.
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 24th day of November 2016
At The Hague, The Netherlands

³ See ICC-01/04-02/06-1616.