



Original: **English**

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

Date: **30 January 2017**

**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**

**Public redacted version of “Urgent request on behalf of Mr Ntaganda for an external medical evaluation of Mr Bosco Ntaganda, and for prompt disclosure of medical information”, 20 September 2016, ICC-01/04-02/06-1517-Conf-Exp**

**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**

**Counsel for the Defence**

Me Stéphane Bourgon

Me Christopher Gosnell

**Legal Representatives of Victims**

**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**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

Mr Paddy Craig

**Victims Participation and Reparations  
Section**

**Urgent Request on behalf of Mr Ntaganda seeking an external medical evaluation  
of Mr Bosco Ntaganda's current state of health**

**“Defence Request”**

1. Bosco Ntaganda has not eaten since 7 September 2016.
2. On 12 September 2016, Mr Ntaganda signed and transmitted a consent for disclosure of his medical file and records from 7 September 2016 onwards to the Trial Chamber and Me Stéphane Bourgon.
3. On Thursday 15 September 2016, at 13h20, the Defence received the first medical report prepared by the ICC Detention Centre Chief Medical Officer, [REDACTED], during the period of Mr Ntaganda's hunger strike. The date of this report was 9 September 2016, implying a delay of six days in the transmission of this report to Mr. Ntaganda's Defence.
4. On the same day, at 18h08, Defence received a follow-up email including a report in Dutch made by an independent psychiatrist on 13 September 2016, about Mr Ntaganda's physical and mental health condition.
5. On Friday 16 September 2016, at 11h40 and 11h53, [REDACTED]. [REDACTED], [REDACTED], [REDACTED]. The Defence has still not yet received the “correct” psychiatric assessment.
6. During the same conversation, [REDACTED] informed the Defence that the consent form was somehow deficient. Accordingly, on Friday 16 September 2016, a new consent form was prepared, signed by Mr Ntaganda and submitted to the ICC DC.
7. On 19 September 2016, the Defence sent a request to the representatives of the ICC DC and to the Registry at 9h08, asking to receive without delay the ‘correct’ psychologist report as well as the requested medical records from Mr

Ntaganda and any daily update regarding his health condition. The Defence still has not received any information regarding this matter.

8. On 19 September 2016, [REDACTED] transmitted a report to the Chamber informing [REDACTED].<sup>1</sup> The Defence notes that it has not received this report to date. This finding may be contrasted [REDACTED] finding [REDACTED] seven days earlier [REDACTED].
9. The Defence questions whether it is plausible that Mr Ntaganda could be considered [REDACTED] after seven more days of not eating. [REDACTED], in itself, strongly suggests the need for an independent medical evaluation of Mr Ntaganda.
10. The Defence suggests that it is vital that the “reporting” medical officer not be the same as the “treating” medical officer. This difference has been emphasized in several ICTY cases, and is important to ensure that Mr Ntaganda is examined and treated by someone whose sole and exclusive mandate is to try to protect his health, rather than to provide information that has an impact on proceedings. The more severe is the patient’s medical condition, the greater the need to bifurcate these two roles.

## CONFIDENTIALITY

11. Pursuant to Regulation 23bis (1) and (2) of the Regulations of the Court, this Defence Urgent Request is classified as confidential, as it refers to Mr Ntaganda’s physical and mental health situation.

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<sup>1</sup> ICC-01/04-02/06-T-134-CONF-ENG, p.9 :5-12.

**RELIEF SOUGHT**

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

**INSTRUCT** the Registry to seek an external medical evaluation of Mr Bosco Ntaganda's state of health;

**ORDER** the Registry to provide immediate and prompt disclosure of all medical records and notes concerning Mr Ntaganda to the Defence on a rolling basis no later than 24 hours after they have been created.

**RESPECTFULLY SUBMITTED ON THIS 30<sup>TH</sup> DAY OF JANUARY 2017**

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