

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 3 February 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***

**Confidential
With Confidential Annexes 1-2**

**Prosecution's provision of further documents related to its application to admit
Witness P-0045's prior recorded testimony pursuant to rule 68(2)(b)**

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
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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

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations Other
Section**

Prosecution's Submissions

1. On 9 January 2017, the Prosecution requested the conditional admission of Witness P-0045's prior recorded testimony pursuant to rule 68(2)(b) of the Rules¹ and regulation 35 of the Regulations² ("Request").³
2. In its Request, the Prosecution noted that it intended to obtain and submit the necessary accompanying declaration certified by a duly authorised certifying officer, pursuant to rule 68(2)(b).⁴
3. On 27 January 2017, the Prosecution provided the Chamber, Defence and participants with one of the three required documents under rule 68(2)(b).⁵
4. On 1 February 2017, the Registry filed two other required documents: the witness's declaration and the certification made by an authorised person within the Registry⁶ in accordance with rule 68(2)(b)(ii) and (iii) of the Rules.⁷ The Registry filed these documents on an *ex parte* basis, making them available to the Registry only.
5. On 2 February 2017, the Chamber ordered the reclassification of the two documents provided by the Registry, making them available to the Prosecution.⁸ The documents were reclassified as "Confidential Ex Parte Registry and Prosecution only" on the same day.⁹

¹ Rules of Procedure and Evidence ("Rules").

² Regulations of the Court ("Regulations").

³ ICC-01/04-02/06-1709-Conf.

⁴ Request, paras.5, 42.

⁵ ICC-01/04-02/06-1755-Conf.

⁶ See ICC-01/04-02/06-729.

⁷ ICC-01/04-02/06-1763-Conf.

⁸ Email from the Chamber to the Registry dated 2 February 2017 at 13:56.

⁹ See ICC-01/04-02/06-1763-Conf-Exp-Anx.

6. The Prosecution annexes the two documents provided by the Registry to this filing, having applied redactions to Witness P-0045's recent contact information in accordance with the Protocol on Redactions.¹⁰

Confidentiality

7. This filing and Annexes 1-2 are classified as "Confidential" pursuant to regulation 23bis(2) of the Regulations in line with the classification of other filings to which they relate. Should the Chamber grant authorisation, this filing may be re-classified as Public. The Annexes should remain confidential.

Request

8. The Prosecution asks that the Chamber admit Witness P-0045's prior recorded testimony pursuant to rule 68(2)(b).



Fatou Bensouda
Prosecutor

Dated this 3rd day of February 2017
At The Hague, The Netherlands

¹⁰ Protocol Establishing a Redaction Regime in the case of *The Prosecutor v. Bosco Ntaganda*, ICC-01/04-02/06-411-AnxA, paras.10-17.