



Original: English

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

Date: 14 March 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**

**With Confidential, *EX PARTE*- only available to the Prosecution and Victims and  
Witnesses Unit Annex 1 and Confidential Redacted Annex 1**

**Public redacted version of "Prosecution's provision of a document related to its  
application to admit Witness P-0045's prior recorded testimony pursuant to  
rule 68(2)(b)", 27 January 2017, ICC-01/04-02/06-1755-Conf**

**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**

**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 Rules<sup>1</sup> and regulation 35 of the Regulations<sup>2</sup> ("Request").<sup>3</sup>
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).<sup>4</sup>
3. On [REDACTED], the Prosecution met with Witness P-0045. Attached to this filing is one of the three required documents under rule 68(2)(b).<sup>5</sup> The Registry will shortly be filing two other required documents: the witness's declaration and the certification made by an authorised person within the Registry<sup>6</sup> in accordance with rule 68(2)(b)(ii) and (iii) of the Rules.

### Confidentiality

4. This filing and Confidential Annex 1 are classified as "Confidential" pursuant to regulation 23*bis*(1) of the Regulations since they refer to information not available to the public. "Confidential, *ex parte*- only available to the Prosecution and Victims and Witnesses Unit Annex 1" is classified in this manner pursuant to the same regulation since it contains information concerning the witness's current location. The Prosecution will file a public redacted version of this filing.

<sup>1</sup> Rules of Procedure and Evidence ("Rules").

<sup>2</sup> Regulations of the Court ("Regulations").

<sup>3</sup> ICC-01/04-02/06-1709-Conf.

<sup>4</sup> Request, paras.5, 42.

<sup>5</sup> Confidential Annex 1 contains DRC-OTP-2101-0002 with a redaction to the location of the meeting [REDACTED]. Confidential, *ex parte*, Annex 1 contains a copy of DRC-OTP-2101-0002 with no redactions.

<sup>6</sup> See ICC-01/04-02/06-729.

## Request

5. 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 14<sup>th</sup> day of March 2017  
At The Hague, The Netherlands