

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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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

**Public redacted version of "Prosecution's request for authorisation to redact
Witness P-0883's witness preparation session log and note",
29 November 2016, ICC-01/04-02/06-1662-Conf-Exp**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Introduction

1. Pursuant to section D of the Redactions Protocol,¹ the Prosecution seeks authorisation to redact a reference in Witness P-0883's witness preparation session log and note to the name of [REDACTED] ("Request").
2. The Defence has indicated to the Prosecution that the name of the individual is material to its preparation. While acknowledging that the name may be material, the Prosecution submits that there is an overriding interest in redacting the name of [REDACTED].

Confidentiality

3. This filing and annexes 1-3 and 6-8 are classified as "Confidential, *ex parte* – only available to the Prosecution, the Legal Representative of the Former Child Soldiers and the Victims and Witnesses Unit" pursuant to regulation 23*bis*(1) of the Regulations of the Court, as they reveal information that the Prosecution seeks authorisation to redact or to maintain redacted. The Prosecution will file confidential and public redacted versions of this filing.

Background

4. Prosecution Witness P-0883 is a [REDACTED].²
5. [REDACTED] is referred to in Witness P-0883's 19 May 2011 [REDACTED]³ as the person through whom the witness may be contacted. She is listed as being associated with [REDACTED]. The same individual is referred to in

¹ Protocol Establishing a Redaction Regime in the case of *The Prosecutor v. Bosco Ntaganda*, ICC-01/04-02/06-411-AnxA ("Redactions Protocol").

² Confidential, *ex parte*, Annexes 1 and 2 (DRC-OTP-2079-1430 and DRC-OTP-2090-0085).

³ Confidential, *ex parte*, Annex 1 (DRC-OTP-2079-1430) at 1433.

the witness's 23 November 2013's [REDACTED]⁴ as the person who assisted her in filling it out. The [REDACTED] the individual is associated with is identified in this second form as [REDACTED]. All identifying information for the individual and the [REDACTED] are presently covered by standard category D.3.6 redactions⁵ in the disclosed versions of the [REDACTED].

6. [REDACTED]⁶. [REDACTED].
7. On 12 July 2016, Witness P-0883 informed the Prosecution that she had recently gone [REDACTED], for which she was charged 30 dollars and 20 dollars, respectively.⁷ The witness stated that she got the money to pay [REDACTED].⁸
8. On 25 July 2016, the witness informed the Prosecution that the two documents were being kept by the [REDACTED] because it was going to verify if the signatures on the documents were correct.⁹ The Prosecution asked the witness to retrieve the documents, and subsequently collected them from her on 5 August 2016.¹⁰
9. On 23 August 2016, the Prosecution asked the witness further questions in relation to the two documents. Witness P-0883 explained that the [REDACTED] was present to pay [REDACTED] and get a receipt, though she did not ask any questions herself, and that [REDACTED] was only present to ensure that the money was well spent.¹¹ P-0883 also explained that the same person accompanied her [REDACTED], to help her pay

⁴ Confidential, *ex parte*, Annex 2 (DRC-OTP-2090-0085), at 0086 and 0088.

⁵ Redactions Protocol, paras. 33-36.

⁶ Confidential, *ex parte*, Annex 1 (DRC-OTP-2079-1430), at 1440.

⁷ Confidential, *ex parte*, Annex 3 (DRC-OTP-2096-0081), at paras. 9-10.

⁸ *Idem*, para. 11.

⁹ *Idem*, para. 12.

¹⁰ *Idem*, paras. 13-14.

¹¹ Confidential, *ex parte*, Annex 3 (DRC-OTP-2096-0081), at para. 19.

[REDACTED].¹² P-0883 stated that she had given the “small document”¹³ to the [REDACTED] before going to [REDACTED] so that she would not think that P-0883 had taken the money for herself.¹⁴

10. On 22 October 2016 the Prosecution interviewed Witness P-0883 in relation to her [REDACTED], with the help of an interpreter assisting remotely, by telephone. The witness confirmed that she was accompanied by a lady [REDACTED] the first time she went to [REDACTED], when she paid for it.¹⁵ P-0883 explained that the following day she returned [REDACTED] by herself to retrieve [REDACTED].¹⁶ The witness also stated that she had gone alone to [REDACTED], and that after obtaining the document there she gave it to the lady [REDACTED] so she could see how she had spent the money, and because she wanted the lady [REDACTED] to verify that the documents were well made.¹⁷

11. On 28 October 2016, the Defence asked the Prosecution to confirm that it did not further investigate the identity of [REDACTED] who assisted the witness in obtaining [REDACTED], and that [REDACTED] is different from [REDACTED] mentioned by the witness in her first statement.¹⁸

12. On 31 October 2016, the Prosecution informed the Defence that it did not ask the witness for the name of the [REDACTED], but indicated that the individual is neither an OTP intermediary nor a resource person, and that

¹² *Idem*, para. 21.

¹³ The Prosecution understands the witness to have meant [REDACTED], DRC-OTP-2094-0656, which is smaller in size than [REDACTED], DRC-OTP-2094-0655. *See* Confidential annexes 4 and 5.

¹⁴ Confidential, *ex parte*, Annex 3 (DRC-OTP-2096-0081), at para. 22.

¹⁵ Confidential, *ex parte*, Annex 6 (DRC-OTP-2097-0449), at paras. 13, 15.

¹⁶ *Ibid*, para. 16.

¹⁷ *Ibid*, paras. 17-18.

¹⁸ Confidential, *ex parte*, Annex 7 (DRC-OTP-2074-0393), at para. 98. Witness P-0883 was initially interviewed by the Prosecution on 22 September 2014.

the Prosecution believes she is also not associated with [REDACTED] referred to in Witness P-0883's first statement.¹⁹

13. On 24 November 2016, during the final witness preparation session with the Prosecution, Witness P-0883 referred to the woman who escorted her [REDACTED] as a "lady called [REDACTED]".²⁰

Prosecution's Submissions

14. The Prosecution acknowledges that the name of [REDACTED] who assisted Witness P-0883 in obtaining [REDACTED] may be material to the Defence's preparation, but submits that there is an overriding interest in redacting the individual's name, in light of the role she appears to fulfil as [REDACTED].

Request

15. In light of the foregoing, the Prosecution asks that the Chamber authorise the redaction to the name [REDACTED] who assisted the witness in obtaining [REDACTED], where it appears on Witness P-0883's witness preparation session log and note.²¹



Fatou Bensouda
Prosecutor

Dated this 14th day of March 2017
At The Hague, The Netherlands

¹⁹ Confidential, *ex parte*, Annex 7 (DRC-OTP-2074-0393).

²⁰ Confidential, *ex parte*, Annex 8 (DRC-OTP-2098-0430).

²¹ Confidential, *ex parte*, Annex 8 (DRC-OTP-2098-0430).