

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 23 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 Annex 1**

**Public redacted version of “Prosecution’s request for admission of Witness
P-0039’s prior recorded testimony pursuant to rule 68(2)(b)” 3 February 2017,
ICC-01/04-02/06-1771-Conf**

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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Participation/Reparation**

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States' Representatives

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Victims and Witnesses Unit

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Detention Section

**Victims Participation and Reparations Other
Section**

Prosecution's Submissions

1. On 14 October 2016, the Prosecution requested the admission of Witness P-0039's prior recorded testimony pursuant to rule 68(2)(b) of the Rules.¹ The Request was accompanied by a declaration,² which the Chamber held did not conform to the requirements of rule 68(2)(b)(iii). The Chamber directed the Prosecution to submit a declaration fulfilling the requirements of 68(2)(b)(ii) and 68(2)(b)(iii) by 3 February 2017.³
2. On 20 January 2017, The Prosecution made a request for assistance ("RFA") to [REDACTED] of The Democratic Republic of the Congo ("DRC") for a competent authority of the DRC to witness the declaration of Prosecution Witness P-0039 pursuant to rule 68(2)(b).
3. Subsequently, the Prosecution was informed that [REDACTED] had appointed [REDACTED] to witness the declaration on behalf of the DRC authorities, following the transmission of the relevant RFA to the [REDACTED].
4. The Prosecution confirms that the certifying officer is duly authorised in accordance with the law and procedure of the DRC to witness the declaration made by P-0039, pursuant to rule 68(2)(b). [REDACTED]. He is thus an official empowered to certify declarations in judicial matters, as confirmed by the DRC authorities to the Prosecution.
5. On 31 January 2017, the Prosecution met with Witness P-0039. Attached to this filing are the required documents under rule 68(2)(b)⁴.

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

² ICC-01/04-02/06-1585-Conf, para. 3; Annex 1 to the Request.

³ ICC-01/04-02/06-1715-Conf, para. 27.

⁴ Confidential Annex 1 contains DRC-OTP-2101-0060, DRC-OTP-2101-0061, DRC-OTP-2101-0062, DRC-OTP-2101-0064. DRC-OTP-2101-0061 contains standard redactions applied to the name of the psycho-social

Confidentiality

6. 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. The Prosecution will file a public redacted version of this filing.

Request

7. The Prosecution accordingly requests the Chamber to admit Witness P-0039’s prior recorded testimony pursuant to rule 68(2)(b).⁵



Fatou Bensouda
Prosecutor

Dated this 23rd day of March 2017
At The Hague, The Netherlands

expert and interpreter, in accordance with the redaction protocol. DRC-OTP-2101-0064 contains standard redactions applied to the name of the interpreter.

⁵ The prior recorded testimony of P-0039 is set out in ICC-01/04-02/06-1585-Conf, para. 2.