

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 4 May 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 public Annex A and confidential Annex B**

**Order amending the procedure for the submission of proposals for redactions and
corrections to transcripts**

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 Bosco Ntaganda

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
Section**

Others

Trial Chamber VI ('Chamber') of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Bosco Ntaganda* ('Ntaganda case') having regard to Articles 64, 67(1), and 68(2) of the Rome Statute, Rule 137 of the Rules of Procedure and Evidence ('Rules'), and Regulation 21 of the Regulations of the Court ('Regulations'), issues this 'Order amending the procedure for the submission of proposals for redactions and corrections to transcripts'.

I. BACKGROUND AND SUBMISSIONS

1. On 2 June 2015, the Chamber issued the 'Decision on the conduct of proceedings', in which it, *inter alia*, set out the procedure for the preparation of lesser redacted versions of transcripts, determining that: 'the calling party will have to propose redactions to the private and/or closed sessions, on which the opposing party may comment. Should the Chamber approve the proposed redactions, the calling party shall transmit the transcripts to the Registry in accordance with the procedure set out by the Registry in this regard'.¹ In the same decision, the Chamber determined that corrections to transcripts were to be submitted in accordance with the Registry's guidelines,² which provide that submissions for any such requests are to be made within five days after the date of notification of the edited transcripts.³
2. On 27 May 2016, the Chamber issued the 'Supplemental decision on matters related to the conduct of proceedings', in which it determined that lesser redacted transcript proposals were to be provided to the Chamber in batches at intervals of three weeks, with each batch containing the transcripts of no

¹ 2 June 2015, ICC-01/04-02/06-619, para.61.

² Decision on the conduct of proceedings, 2 June 2015, ICC-01/04-02/06-619, para.62.

³ Procedure to be used for corrections and redactions of Transcripts of hearings, Annex 1 to Registry Observations in response to "Order requesting submissions on the conduct of proceedings pursuant to Rule 140 of the Rules and on modalities of victims' participation at trial" (ICC-01/04-02/06-507) (Transcript Correction Procedure) registered on 8 April 2015, ICC-01/04-02/06-549-Conf-Anxl, pages 2-3.

less than three witnesses.⁴ In the same decision, the Chamber determined that transcript correction requests were to be submitted within 21 days from the date of notification of the edited version of a transcript.⁵

3. Between 15 June 2016 and 17 February 2017, the Chamber granted a number of requests from the Office of the Prosecutor ('Prosecution') seeking an extension of the deadline for transcript corrections for Prosecution witnesses, as well as for the provision of lesser redacted versions of transcripts.⁶
4. On 14 April 2017, the defence team for Mr Ntaganda ('Defence') requested a modification to the time limit for: (i) proposals of lesser redacted versions of transcripts; and (ii) requests for transcript corrections, asking that the deadline for both tasks be extended until the end of the presentation of the Defence case ('Defence Request').⁷ The Defence submits that it is not in a position to follow the pace set by the Chamber regarding these tasks, arguing that: (i) its present workload in preparing for the Defence presentation of evidence does not allow for it; (ii) the task of submitting proposals for lesser redacted versions of transcripts is of a lower priority than that of competing tasks; and (iii) the Registry is primarily responsible for ensuring the accuracy of transcripts.

II. ANALYSIS

5. The Chamber has considered the submissions of the Defence, as well as the time-intensive nature of preparing transcript corrections and lesser redacted

⁴ Supplemental decision on matters related to the conduct of proceedings, ICC-01/04-02/06-1342, 27 May 2016, para.13.

⁵ Supplemental decision on matters related to the conduct of proceedings, ICC-01/04-02/06-1342, 27 May 2016, para.23.

⁶ Email communication from Trial Chamber VI to the parties on 15 June 2016 at 10:53; email communication from Trial Chamber VI to the parties on 1 August 2016 at 9:37; email communication from Trial Chamber VI to the parties on 24 August 2016 at 10:47; and email communication from Trial Chamber VI to the parties on 17 February 2017 at 12:06. The decisions are attached as Annex B to the present decision.

⁷ Email communication from the Defence to the Chamber on 14 April 2017 at 11:29. The Defence Request is reproduced in Annex A to the present decision.

versions of transcripts. The Chamber also recalls that, as noted above, on certain occasions, it has granted Prosecution requests for extensions for proposals of lesser redacted versions of transcripts and for the correction of transcripts. The Chamber therefore considers the following directions to be appropriate.

(i) Transcript Corrections

6. The Chamber notes that for the last evidentiary blocks of the presentation of evidence by the Prosecution, it had authorised the parties and participants to submit requests for corrections to the transcripts to the Registry within three weeks of the notification of the edited transcripts.⁸ The Chamber considers it appropriate to adopt the same procedure for the presentation of evidence by the Defence.

(ii) Lesser Redacted Versions of Transcripts

7. The Chamber has considered the overall procedure for the submission of lesser redacted versions of transcripts, and in this regard, notes that the parties, and in particular, the calling party, have detailed knowledge of the circumstances of witnesses and are thus well-positioned to ensure that all confidential information is properly redacted. The Chamber further notes the procedure relating to lesser redacted versions of transcripts followed by Trial Chamber IX in *The Prosecutor v. Dominic Ongwen*, whereby the calling party reviews the transcript and proposes a lesser redacted version within 21 days of notification; other parties may raise any objections within 10 days of receiving the proposed lesser redacted version; and, if there are no objections to the proposed lesser redacted version, the Registry files it in the record of

⁸ Email communication from Trial Chamber VI to the parties on 17 February 2017 at 12:06. The communication is reproduced in Annex B to the present decision.

the case.⁹ The Chamber considers that the approach adopted by Trial Chamber IX would lead to a more efficient procedure and is appropriate to implement for the present proceedings.

8. Accordingly, the Prosecution and the Legal Representatives of Victims ('LRVs') shall submit any pending proposals for lesser redacted versions of transcripts for their witnesses as soon as practicable, but in any event, no later than the last day of the presentation of closing statements. Any objections to these submissions shall be raised within 21 days of the last day of the presentation of closing statements. Should no objections to the proposed lesser redacted versions be made, the Registry shall file them in the record of the case.
9. The Defence shall submit proposed lesser redacted versions of transcripts for its witnesses no later than 60 days after the last day of the presentation of closing statements. The other parties shall raise any objections within 21 days of the provision of proposals. Should no objections to the proposed lesser redacted versions be made, the Registry shall file them in the record of the case.
10. The Chamber further reminds the parties and participants to ensure that confidential information is redacted in a consistent manner throughout the transcripts, and to be mindful of the redaction orders that have been issued. By way of guidance, the Chamber will provide examples of several potential oversights that it has identified to proposed lesser redacted versions of transcripts.¹⁰

⁹ Initial Directions on the Conduct of the Proceedings, 13 July 2016, ICC-02/04-01/15-497, para. 37

¹⁰ The Chamber will provide examples via email.

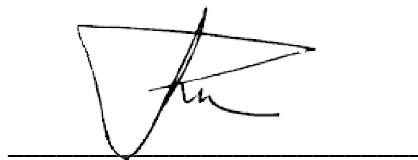
11. The Chamber further notes that, in some circumstances, the Victims and Witnesses Unit ('VWU') may also be well-positioned to advise on proposals for lesser redacted versions of transcripts, and encourages the parties to consult with the VWU in this regard as necessary.

12. The Chamber determines that the aforementioned procedure shall apply to proposed lesser redacted versions of transcripts that have already been submitted, and invites the Prosecution to conduct any necessary further review of its lesser redacted proposals and to re-submit revised proposals where required.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

ORDERS the parties and the Registry to comply with the directions set out in this order.

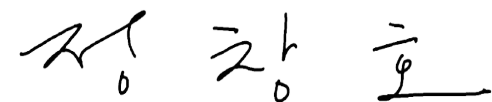
Done in both English and French, the English version being authoritative.



Judge Robert Fremr, Presiding Judge



Judge Kuniko Ozaki



Judge Chang-ho Chung

Dated 4 May 2017

At The Hague, The Netherlands

No. ICC-01/04-02/06

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4 May 2017