

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: ICC-01/04-02/06
Date: 15 September 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

Decision on the reclassification of certain items admitted into evidence

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

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber VI ('Chamber') of the International Criminal Court, in the case of *The Prosecutor v. Bosco Ntaganda*, having regard to Articles 64, 67, 68, and 69 of the Rome Statute, Rules 15 and 137 of the Rules of Procedure and Evidence, and *inter alia*, to Regulations 20(3), and 21(7) of the Regulations of the Court, issues the following 'Decision on the reclassification of certain items admitted into evidence'.

1. On 22 August 2017, the Chamber indicated its intention to reclassify, to the extent possible, the evidence admitted on the record from 'confidential' to 'public', in the interest of the publicity of the proceedings. It therefore directed the parties and the participants 'to coordinate with each other and the Registry, as appropriate, review the case record and indicate, by 31 October 2017, any items that can be reclassified as "public", with or without redactions, and to provide reasons for any admitted items to remain confidential'.¹
2. On 4 September 2017, the Chamber further directed the parties and the participants to prioritize the review of 38 items of evidence.² In particular, the Chamber instructed the Office of the Prosecutor ('Prosecution') to indicate, by 7 September 2017, whether the items in question could be reclassified as 'public' and/or provide reasons for any of them to remain confidential.³
3. On 7 September 2017, the Prosecution filed its submissions, indicating that 36 of the 38 items can be reclassified as 'public' without redactions, while two of them require redactions before they can be made available to the public.⁴

¹ Email communication from the Chamber to the parties and the participants, 22 August 2017, at 12:32. *See also* ICC-01/04-02/06-T-231-Red-ENG, page 4, lines 9-15.

² Email communication from the Chamber to the parties and the participants, 4 September 2017, at 12:03

³ Email communication from the Chamber to the parties and the participants, 4 September 2017, at 12:03.

⁴ Prosecution's first submissions on the reclassification of items admitted into evidence, ICC-01/04-02/06-2027-Conf ('Prosecution Submissions'), with confidential Annexes 1 and 2. A public redacted version was filed on the same day, ICC-01/04-02/06-2027-Red. The relevant items are listed in footnotes 5 and 6 of the Prosecution Submissions.

According to the Prosecution, the proposed redactions are necessary for reasons related witness protection.⁵

4. On 11 September 2017, in line with the schedule set by the Chamber,⁶ the Defence team for Mr Ntaganda filed its submissions, in which it does not oppose the reclassification of items as proposed by the Prosecution.⁷
5. In light of the parties' submissions, and having reviewed the items in question, the Chamber finds it appropriate to reclassify the 36 items listed below as 'public'. For the remaining items, which will remain confidential, the Prosecution is to prepare public redacted versions in line with its submissions and make them available in eCourt.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

DIRECTS the Registry to reclassify the following items as 'public':

DRC-OTP-0014-0187; DRC-OTP-0016-0133; DRC-OTP-0018-0113; DRC-OTP-0029-0306; DRC-OTP-0037-0295; DRC-OTP-0041-0098; DRC-OTP-0055-0476; DRC-OTP-0081-0006; DRC-OTP-0089-0059; DRC-OTP-0089-0483; DRC-OTP-0091-0709; DRC-OTP-0093-0136; DRC-OTP-0093-0359; DRC-OTP-0094-0134; DRC-OTP-0094-0160; DRC-OTP-0109-0101; DRC-OTP-0113-0052; DRC-OTP-0113-0133; DRC-OTP-0113-0141; DRC-OTP-0113-0156; DRC-OTP-0120-0294; DRC-OTP-0124-0002; DRC-OTP-0127-0063; DRC-OTP-0132-0018; DRC-OTP-0136-0173; DRC-OTP-0147-0205; DRC-OTP-0147-0320; DRC-OTP-0159-0436; DRC-OTP-0164-0452; DRC-OTP-0164-0455; DRC-OTP-0164-0567; DRC-OTP-0164-0710; DRC-OTP-0214-0065; DRC-OTP-2078-0202; DRC-OTP-2101-2774; DRC-OTP-2101-2791; and

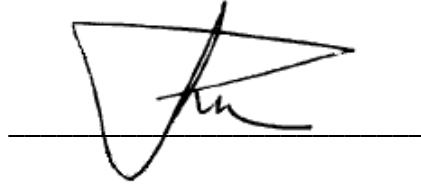
DIRECTS the Prosecution to make available in eCourt, as soon as practicable, public redacted versions of DRC-OTP-0174-0126 and DRC-OTP-0174-0127, in accordance with paragraph 5 above, liaising with the Registry, if appropriate.

⁵ Prosecution Submissions, para. 4.

⁶ See Email communication from the Chamber to the parties and the participants, 4 September 2017, at 12:03.

⁷ Response to Prosecution's first submissions on the reclassification of items admitted into evidence, ICC-01/04-02/06-2029-Conf.

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

A handwritten signature in black ink, consisting of a large, stylized 'F' with a horizontal line extending to the right, and a smaller, cursive 'r' below it.

Judge Robert Fremr, Presiding Judge

A handwritten signature in black ink, consisting of a large, stylized 'K' followed by a cursive 'u' and 'i'.

Judge Kuniko Ozaki

A handwritten signature in black ink, consisting of three distinct, stylized characters.

Judge Chang-ho Chung

Dated this 15 September 2017
At The Hague, The Netherlands