

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-02/06
Date: 26 August 2013

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR V. BOSCO NTAGANDA***

Public

**Decision Requesting Observations on the Defence's Application for Interim
Release**

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

The Office of the Prosecutor

Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor

Defence

Marc Desalliers

Legal Representatives of the Victims

Legal Representatives of the 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

Competent authorities of the Kingdom of
the Netherlands

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar

Herman Von Hebel, Registrar
Didier Preira, Deputy Registrar

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”)¹ is seized of the “Requête de la Défense aux fins de mise en liberté provisoire de M. Bosco Ntaganda” (the “Application”) submitted by the Defence of Bosco Ntaganda (“Mr. Ntaganda”) on 20 August 2013.²

1. On 22 August 2006, Pre-Trial Chamber I, to which this case had originally been assigned, issued the “Decision on the Prosecution Application for a Warrant of Arrest”,³ along with a corresponding warrant of arrest for Mr. Ntaganda.⁴
2. On 15 March 2012, the Presidency re-assigned the situation in the Democratic Republic of the Congo to this Chamber.⁵
3. On 13 July 2012, the Chamber issued the “Decision on the Prosecutor’s Application under Article 58”,⁶ with which a second warrant of arrest was issued against Mr. Ntaganda.
4. On 22 March 2013, the Single Judge issued the “Decision on Setting the Date for the Initial Appearance and Related Issues”,⁷ in which she, *inter alia*, noted Mr.

¹ Pre-Trial Chamber II, “Decision Designating a Single Judge”, 21 March 2013, ICC-01/04-02/06-40, p. 4.

² ICC-01/04-02/06-87-Red.

³ Pre-Trial Chamber I, “Decision on the Prosecution Application for a Warrant of Arrest”, 22 August 2006, ICC-01/04-02/06-1-US-Exp-tEN; a redacted version was filed in the record of the case on 6 March 2007 and the decision was made public on 1 October 2010, ICC-01/04-02/06-1-Red-tENG.

⁴ Pre-Trial Chamber I, “Warrant of Arrest”, 22 August 2006, ICC-01/04-02/06-2-Anx-tENG; a corrigendum was filed into the record of the case on 7 March 2007, see ICC-01/04-02/06-2-Corr-tENG-Red.

⁵ Presidency, “Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d’Ivoire situations”, 15 March 2012, ICC-01/04-02/06-32.

⁶ Pre-Trial Chamber II, “Decision on the Prosecutor’s Application under Article 58”, 13 July 2012, ICC-01/04-02/06-36-Conf-Exp; and public redacted version, ICC-01/04-02/06-36-Red.

⁷ Pre-Trial Chamber II, “Decision on Setting the Date for the Initial Appearance and Related Issues”, 22 March 2013, ICC-01/04-02/06-41.

Ntaganda's voluntary surrender to the Court⁸ and decided to convene a hearing for his initial appearance,⁹ which took place on 26 March 2013.¹⁰

5. On 20 August 2013, the Defence filed the Application in which it requested the immediate interim release of Mr. Ntaganda to the Kingdom of the Netherlands and, where necessary, the application of those conditions which the Chamber considered necessary in accordance with rule 119 of the Rules of Procedure and Evidence (the "Rules").¹¹

6. The Single Judge notes articles 60(2) and 67(1) of the Rome Statute, rules 118 and 119 of the Rules, and regulations 34 and 51 of the Regulations of the Court (the "Regulations").

7. According to rule 118(1) of the Rules and regulation 51 of the Regulations, the Single Judge shall decide upon a request for interim release without delay, after seeking the views of the Prosecutor and observations from the host State and from the State to which the person seeks to be released. Given that Mr. Ntaganda seeks to be released on the territory of the Kingdom of the Netherlands, which is also the host State, the Single Judge considers that in order to be in a position to decide on the Application it is sufficient to receive observations only from the Prosecutor and the Kingdom of the Netherlands.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

- a) requests** the Prosecutor to submit observations on the Application no later than **Friday, 6 September 2013;**

⁸ Pre-Trial Chamber II, "Decision on Setting the Date for the Initial Appearance and Related Issues", 22 March 2013, ICC-01/04-02/06-41, p. 4.


⁹ Pre-Trial Chamber II, "Decision on Setting the Date for the Initial Appearance and Related Issues", 22 March 2013, ICC-01/04-02/06-41, p. 5.

¹⁰ Pre-Trial Chamber II, Transcript of Hearing, 26 March 2013, ICC-01/04-02/06-T-2-ENG ET.

¹¹ ICC-01/04-02/06-87-Red, p. 17.

- b) **orders** the Registrar to notify the relevant authorities of the Kingdom of the Netherlands of the present decision and to transmit the redacted version of the Application to the said authorities; and
- c) **invites** the relevant authorities of the Kingdom of the Netherlands to submit observations no later than **Friday, 13 September 2013** on: (i) the Application and (ii) the conditions, if any, that would have to be met to enable the Kingdom of the Netherlands to accept Mr. Ntaganda on its territory.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Monday, 26 August 2013

At The Hague, The Netherlands