

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 18 November 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 on the "Demande de la Défense aux fins de traduction en kinyarwanda
de la déposition écrite du témoin à charge P-0027"**

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

Counsel for the 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

Other

REGISTRY

Registrar
Herman von Hebel

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,¹ hereby renders this decision on the “Demande de la Défense aux fins de traduction en Kinyarwanda de la deposition écrite du témoin à charge P-0027” (the “Application”).²

1. On 17 May 2013, the Single Judge issued the “Decision Establishing a Calendar for the Disclosure of Evidence Between the Parties” for the purpose of providing the parties with a precise timetable for disclosure and requests for redactions or translation of evidence.³
2. On 17 June 2013, the Single Judge issued the “Decision on the ‘Prosecution’s Urgent Request to Postpone the Date of the Confirmation Hearing’ and Setting a New Calendar for the Disclosure of Evidence Between the Parties”⁴ in which the Single Judge, *inter alia*, postponed the commencement of the confirmation of charges hearing, initially scheduled to take place on 23 September 2013, until Monday, 10 February 2014.⁵ In the same decision, the Single Judge also established a new calendar for the disclosure of evidence, including the submission of redaction and translation requests.⁶
3. On 24 September 2013, the Single Judge issued the “Decision on the ‘Demande de la Défense aux fins de traduction en Kinyarwanda de certains des principaux éléments de preuve’”.⁷
4. On 15 November 2013, the Defence submitted the Application, in which it requests that the Single Judge order the Prosecutor to disclose to the Defence a draft translation in Kinyarwanda of the statement of witness P-0027.⁸

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

² ICC-01/04-02/06-144.

³ Pre-Trial Chamber II, “Decision Establishing a Calendar for the Disclosure of Evidence Between the Parties”, 17 May 2013, ICC-01/04-02/06-64.

⁴ Pre-Trial Chamber II, ICC-01/04-02/06-73.

⁵ Pre-Trial Chamber II, ICC-01/04-02/06-73, p. 19.

⁶ Pre-Trial Chamber II, ICC-01/04-02/06-73, pp. 19-22.

⁷ Pre-Trial Chamber II, ICC-01/04-02/06-115.

5. The Single Judge notes articles 21(1)(a), (2) and (3), 61 and 67 of the Rome Statute, and rule 76(3) of the Rules of Procedure and Evidence.

6. In its Application, the Defence submits that a draft translation of the statement of witness P-0027 will suffice to put the suspect in a position to understand the evidence that is essential for the preparation of his defence.⁹ The Defence further submits that the translation into Kinyarwanda of the Prosecutor's witness statements should not cause a delay to the commencement of the confirmation of charges hearing.¹⁰

7. In this respect, the Single Judge notes that the Defence identified only one witness statement for which translation into Kinyarwanda is requested. She also takes note of the Defence's practical approach to translation issues, as proposed previously in other filings, according to which draft translations of witness statements suffice to put the suspect in a position to understand the pieces of evidence that are essential for the preparation of the Defence.¹¹ However, the Single Judge recalls her previous rulings in which she stressed that "the Single Judge is bound to take into account factors which have a bearing on the matter *sub judice*, including the postponement of the date of the confirmation of charges hearing, which may curtail the rights of the accused 'to be tried without undue delay'".¹² In this regard, the Single Judge considers it crucial that the Defence conducts a thorough review of the statement of witness P-0027 in order to identify only those relevant parts which are essential or core for the preparation of the defence.¹³ In light

⁸ ICC-01/04-02/06-144, p. 4.

⁹ ICC-01/04-02/06-144, para. 7.

¹⁰ ICC-01/04-02/06-144, para. 6. See also ICC-01/04-02/06-69-Conf-tENG, para. 56.

¹¹ ICC-01/04-02/06-144, para. 7.

¹² Pre-Trial Chamber II, "Decision on the Defence Request for Extension of Time for the Purpose of Requesting Translation of Witness Statements into Kinyarwanda", 13 November 2013, para. 19.; see also Pre-Trial Chamber II, "Decision on the 'Demande de la Défense aux fins de traduction en Kinyarwanda de certains des principaux éléments de preuve'", 24 September 2013, ICC-01/04-02/06-115, para. 12.

¹³ Pre-Trial Chamber II, "Decision on the Defence Request for Extension of Time for the Purpose of Requesting Translation of Witness Statements into Kinyarwanda", 13 November 2013, ICC-01/04-02/06-140, para. 19; see also Pre-Trial Chamber II, "Decision on the 'Demande de la Défense aux fins de traduction en kinyarwanda de certains des principaux éléments de preuve'", 24 September 2013,


of the foregoing considerations, the Single Judge deems it appropriate to grant the application.

8. Lastly, the Single Judge orders that any redactions previously granted or ordered *proprio motu* in relation to the statement of witness P-0027, be extended to the translation of the statement into Kinyarwanda.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

- a) **grants** the Application; and
- b) **orders** that any redaction previously granted or ordered *proprio motu* in relation to the statement of witness P-0027, be extended to the translation of the statement into Kinyarwanda.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Monday, 18 November 2013

At The Hague, The Netherlands

ICC-01/04-02/06-115, para. 12; Pre-Trial Chamber II, "Decision Establishing a Calendar for the Disclosure of Evidence Between the Parties", 17 May 2013, ICC-01/04-02/06-64, paras 21, 22 and 26; Pre-Trial Chamber II, "Decision on the 'Prosecution's Urgent Request to Postpone the Date of the Confirmation Hearing' and Setting a New Calendar for the Disclosure of Evidence Between the Parties", 17 June 2013, ICC-01/04-02/06-73, paragraph (f)(i) of the operative part, pp. 21-22.