

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 10 December 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 Prosecutor's Request for an Extension of Page Limit for the  
Document Containing the Charges**

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**

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**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,<sup>1</sup> hereby renders the decision on the “Prosecution’s request for an extension of the page limit for the Document Containing the Charges” (the “Application”).<sup>2</sup>

## **I. PROCEDURAL HISTORY**

1. 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”,<sup>3</sup> 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.<sup>4</sup>

2. On 5 December 2013, the Prosecutor submitted the Application requesting that an extension of the page limit for the document containing the charges to 60 pages be granted.

## **II. THE APPLICABLE LAW**

3. The Single Judge is mindful of articles 61(3) and 67(1)(a) of the Rome Statute (the “Statute”) and rule 121(3) of the Rules of Procedure and Evidence. Further, note is taken of regulation 37(2) of the Regulations of the Court (the “Regulations”) according to which the Chamber may, upon request, “extend the page limit in exceptional circumstances”. Most importantly, the Single Judge also recalls that pursuant to regulation 52 of the Regulations:

[t]he document containing the charges referred to in article 61 shall include:

(a) The full name of the person and any other relevant identifying information;

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

<sup>2</sup> ICC-01/04-02/06-163.

<sup>3</sup> Pre-Trial Chamber II, ICC-01/04-02/06-73.

<sup>4</sup> Pre-Trial Chamber II, ICC-01/04-02/06-73, p. 19.

- (b) A statement of the facts, including the time and place of the alleged crimes, which provides a sufficient legal and factual basis to bring the person or persons to trial, including relevant facts for the exercise of jurisdiction by the Court;
- (c) A legal characterisation of the facts to accord both with the crimes under articles 6, 7 or 8 and the precise form of participation under articles 25 and 28.

### III. THE REQUEST

4. The Prosecutor submits that exceptional circumstances exist in the present case. She requires the extension to be able to describe with sufficient detail the relevant facts and circumstances underlying ten counts of war crimes, five counts of crimes against humanity and alternative modes of liability.

### IV. DETERMINATION BY THE SINGLE JUDGE

5. The Single Judge is particularly attentive to the rights of the Defence as enshrined in article 67(1)(a) of the Statute pursuant to which it is the right of the Defence to be “informed promptly and in detail of the nature, cause and content of the charge”. Accordingly, and in line with the jurisprudence of this Court,<sup>5</sup> it is incumbent on the Prosecutor to present the document containing the charges with sufficient precision and detail as required by regulation 52 of the Regulations. The Single Judge is persuaded by the Prosecutor’s submission that the extension is necessary “to enable the [Prosecutor] to describe, in appropriate detail, the relevant facts and circumstances and to provide the Defence with detailed notice of the charges”.<sup>6</sup> The Single Judge is also mindful of the fact that at the confirmation of charges hearing fifteen counts in total and alternative modes of liabilities will be discussed.

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<sup>5</sup> Pre-Trial Chamber I, “Decision on the date of the confirmation of charges hearing and proceedings leading thereto”, 14 December 2012, ICC-02/11-01/11-325, paras 25-29; Pre-Trial Chamber I, “Decision on the confirmation of charges”, ICC-01/04-01/10-465-Red, 16 December 2011, paras 82-83; Pre-Trial Chamber II, “Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute”, 23 January 2012, ICC-01/09-01/11-373, paras 98-99; Pre-Trial Chamber II, “Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, 23 January 2012, ICC-01/09-02/11-382-Red, paras 56-60. Following the same approach, albeit at another procedural stage, see Trial Chamber V, “Order for the prosecution to file an updated document containing the charges”, 5 July 2012, ICC-01/09-02/11-450, para. 9; Trial Chamber V, “Order regarding the content of the charges”, 20 November 2012, ICC-01/09-02/11-536, para. 7.

<sup>6</sup> ICC-01/04-02/06-163, para. 4.

6. In light of the foregoing, the Single Judge is of the view that the reasons presented by the Prosecutor constitute exceptional circumstances within the meaning of regulation 37(2) of the Regulations and it is therefore reasonable to grant the proposed extension beyond the regular page limit provided for in regulation 37(1) of the Regulations.

**FOR THESE REASONS, THE SINGLE JUDGE HEREBY**

**grants** the Application.

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



Judge Ekaterina Vrendafilova  
Single Judge

Dated this Tuesday, 10 December 2013

At The Hague, The Netherlands