



Original: **English**

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

Date: **16 July 2014**

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 “Requête de Me Marc Desalliers afin d’être autorisé à se retirer du dossier en qualité de Conseil principal de M. Bosco Ntaganda”

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
Andrea Valdivia

Legal Representatives of the Victims

Sarah Pellet
Dmytro Suprun

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

Counsel Support Section

Esteban Peralta Losilla

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 the decision on the “Requête de Me Marc Desalliers afin d’être autorisé à se retirer du dossier en qualité de Conseil principal de M. Bosco Ntaganda” (the “Request”).²

1. On 22 August 2006³ and on 13 July 2012,⁴ two warrants of arrest were issued against Bosco Ntaganda (“Mr. Ntaganda”).
2. On 22 March 2013, Mr. Ntaganda voluntarily surrendered to the Court⁵ and on 26 March 2013, the suspect made his first appearance before the Chamber.⁶
3. The confirmation of charges hearing was held from 10 until 14 February 2014.⁷
4. On 9 June 2014, the Chamber issued the “Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda” (the “Confirmation Decision”), in which the Chamber decided, *inter alia*, to confirm the charges presented by the Prosecutor against Mr. Ntaganda and to commit him to a Trial Chamber for trial on the charges as confirmed.⁸
5. On 7 July 2014, the Single Judge issued the “Decision on the ‘Requête de la Défense sollicitant l’autorisation d’interjeter appel de la Décision sur la confirmation

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

² ICC-01/04-02/06-332.

³ Pre-Trial Chamber I, “Decision on the Prosecution Application for a Warrant of Arrest”, 22 August 2006, ICC-01/04-02/06-1-Conf-Exp-tENG; a redacted version is also available, see Pre-Trial Chamber I, “[Decision on the Prosecution Application for Warrant of Arrest](#)”, 6 March 2007, ICC-01/04-02/06-1-Red-tENG. A warrant of arrest was issued alongside this decision, see Pre-Trial Chamber I, “[Mandat d’arrêt](#)”, ICC-01/04-02/06-2; and “[Warrant of Arrest](#)”, ICC-01/04-02/06-2-Anx-tENG.

⁴ Pre-Trial Chamber II, “Decision on the Prosecutor’s Application under Article 58”, 13 July 2012, ICC-01/04-02/06-36-Conf-Exp; a public redacted version is also available, see Pre-Trial Chamber II, “[Decision on the Prosecutor’s Application under Article 58](#)”, 13 July 2012, ICC-01/04-02/06-36-Red.

⁵ 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, para. 7.

⁶ Pre-Trial Chamber II, [Transcript of Hearing](#), 26 March 2013, ICC-01/04-02/06-T-2-ENG.

⁷ Pre-Trial Chamber II, [Transcript of Hearing](#), 10 February 2014, ICC-01/04-02/06-T-7-ENG; Pre-Trial Chamber II, [Transcript of Hearing](#), 14 February 2014, ICC-01/04-02/06-T-11-ENG.

⁸ Pre-Trial Chamber II, [ICC-01/04-02/06-309](#) and its [Annex](#).

des charges datée du 9 juin 2014”⁹, rejecting the request for leave to appeal submitted by the Defence.¹⁰

6. On 15 July 2014, the Chamber received the Request, in which Marc Desalliers (“Mr. Desalliers”) requests authorization from the Chamber, pursuant to regulation 78 of the Regulations of the Court (the “Regulations”), to withdraw from the present case in his capacity as lead counsel of Mr. Ntaganda, due to irreconcilable views between Mr. Ntaganda and Mr. Desalliers on the conduct of the accused’s defence.¹¹

7. The Single Judge notes article 67(1)(d) of the Rome Statute (the “Statute”), rules 20-22 of the Rules of Procedure and Evidence (the “Rules”), regulation 78 of the Regulations, and articles 8, 15(2), 17(2), 18 and 19 of the Code of Professional Conduct for counsel (the “Code of Conduct”).

8. The Single Judge takes note of the reasons that motivated the Request and authorizes Mr. Desalliers to withdraw from the present case as lead counsel of Mr. Ntaganda. The Single Judge reminds Mr. Desalliers that, notwithstanding his withdrawal, he remains bound by the obligations of professional secrecy, confidentiality, conservation of case-related files and transmission of the same to the replacement counsel, in accordance with articles 8, 18(2) and (5) and 19 of the Code of Conduct.

9. The Single Judge considers it necessary that the Registrar take immediate steps, pursuant to rules 20-22 of the Rules, to facilitate the selection and appointment of counsel for Mr. Ntaganda, in order for the accused to continue enjoying the rights provided for in article 67 of the Statute. To this effect, the Single Judge considers that

⁹ Pre-Trial Chamber II, “[Decision on the ‘Requête de la Défense sollicitant l’autorisation d’interjeter appel de la Décision sur la confirmation des charges datée du 9 juin 2014’](#)”, 7 July 2014, ICC-01/04-02/06-322.

¹⁰ Pre-Trial Chamber II, “[Decision on the ‘Requête de la Défense sollicitant l’autorisation d’interjeter appel de la Décision sur la confirmation des charges datée du 9 juin 2014’](#)”, 7 July 2014, ICC-01/04-02/06-322, p. 14.


¹¹ ICC-01/04-02/06-332, para. 2.

Mr. Desalliers shall continue representing Mr. Ntaganda until the new counsel has been appointed.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

- a) Authorizes** Mr. Desalliers to withdraw from the present case as lead counsel of Mr. Ntaganda;
- b) Orders** the Registrar to take immediate steps to facilitate the selection and appointment of counsel for Mr. Ntaganda; and
- c) Decides** that Mr. Desalliers shall continue representing Mr. Ntaganda until the new counsel has been appointed.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Wednesday, 16 July 2014

At The Hague, The Netherlands