

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-02/06
Date: 30 October 2014

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Geoffrey Henderson

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Public

Order instructing the Prosecution to prepare an updated document containing the charges

Order 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 Luc Boutin

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**

Ms Paolina Massidda

**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 61 and 64 of the Rome Statute ('Statute') and Regulation 52 of the Regulations of the Court, issues the following 'Order instructing the Prosecution to prepare an updated document containing the charges'.

1. On 14 October 2014, the Chamber received written submissions in preparation of a status conference held on 17 October 2014, from the Office of the Prosecutor ('Prosecution') and the defence team for Mr Ntaganda ('Defence') on the need for clarification, if any, on the nature, cause and content of the charges.¹ During the aforementioned status conference, the Chamber heard further submissions by the parties on this matter.² The Chamber notes that both the Defence and the Prosecution expressed the wish for an updated document containing the charges ('Updated DCC').³
2. The Prosecution has submitted that the confirmation decision in this case ('Confirmation Decision')⁴ has:

[C]onfirmed certain aspects of our charges and not others, particularly in relation to modes of liability for particular charges, it has altered the geographic scope with which our initial charging document set out the charges and it altered the time frames, both for the contextual elements, so the crimes against humanity context has been shortened, and the time frame for the two main charged incidents has been amended by the Pre-Trial Chamber. Additionally they have set out very specific locations where specific crimes took place, which differs quite significantly from the original charging document.⁵

¹ Prosecution Submissions in Preparation for the 17 October 2014 Status Conference, ICC-01/04-02/06-385; Written Submissions on Behalf of Mr Ntaganda 9 October 2014 Status Conference, ICC-01/04-02/06-384; respectively.

² Transcript of hearing on 17 October 2014, ICC-01/04-02/06-T-15-ENG ET.

³ For Defence, see, e.g., ICC-01/04-02/06-T-15-ENG ET, page 5, lines 16-18 and page 6, lines 17-21. For Prosecution, see, e.g., ICC-01/04-02/06-T-15-ENG ET, page 8, lines 7 and 17-18.

⁴ Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda, 12 June 2014, ICC-01/04-02/06-309.

⁵ Transcript of hearing on 17 October 2014, ICC-01/04-02/06-T-15-ENG ET, page 7 line 23 to page 8 line 6.

3. The Prosecution stressed during the Status Conference that all of these changes ought to be recorded in an Updated DCC and that they do not intend to go beyond the Confirmation Decision when preparing this document.⁶
4. The Defence submitted that in order to avoid any problems during trial, it is important to have a 'firm document clearly highlighting the Prosecution's understanding of the changes that have been brought to the documents containing the charges by the confirming Chamber'.⁷ The Defence submitted that, if the Prosecution files an Updated DCC and it is in accordance with the Confirmation Decision, then the trial will be able to proceed 'on a smoother basis and that we will avoid problems'.⁸
5. The Chamber recalls that the parties have agreed that the charges as confirmed by Pre-Trial Chamber II can properly be contained in an Updated DCC. In these circumstances, on the basis of Article 64(2) of the Statute, the Chamber directs the Prosecution to provide the Defence with a draft Updated DCC by 7 November 2014. Thereafter, both parties are to liaise together with a view to resolving any areas of disagreement as to whether the draft Updated DCC properly reflects the Confirmation Decision.
6. The Updated DCC is to contain references to the relevant paragraphs of the Confirmation Decision, and should not include any facts and circumstances explicitly rejected by the Pre-Trial Chamber in this decision.⁹
7. Following its consultation with the Defence, the Prosecution is directed to file the Updated DCC with the Chamber by 14 November 2014. The Chamber will thereafter decide whether it approves the Updated DCC as

⁶ Transcript of hearing on 17 October 2014, ICC-01/04-02/06-T-15-ENG ET, page 8 lines 7-12.

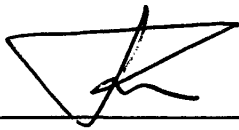
⁷ Transcript of hearing on 17 October 2014, ICC-01/04-02/06-T-15-ENG ET, page 5 lines 19-22.

⁸ Transcript of hearing on 17 October 2014, ICC-01/04-02/06-T-15-ENG ET, page 5 line 6 to page 6 line 9.

⁹ See Confirmation Decision, paras 12, 53 and 97.

agreed to by the parties. Any points of disagreement that could not be resolved during *inter partes* consultations are to be raised in the form of a jointly submitted, Prosecution and Defence, annex to the Updated DCC.

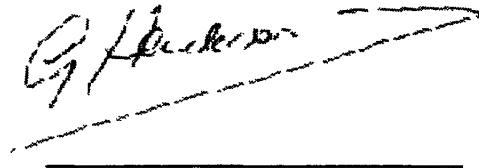
Done in both English and French, the English version being authoritative.



Judge Robert Fremr, Presiding Judge



Judge Kuniko Ozaki



Judge Geoffrey Henderson

Dated 30 October 2014

At The Hague, The Netherlands