

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 3 March 2015

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

Decision on the Defence's urgent motion for an extension of page limit to respond to the Prosecution's delayed disclosure and non-standard redactions requests

Decision 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**

Other

Trial Chamber VI ('Chamber') of the International Criminal Court, in the case of *The Prosecutor v. Bosco Ntaganda*, having regard to Article 64(6)(f) of the Rome Statute and Regulations 34 and 37 of the Regulations of the Court, issues this 'Decision on the Defence's urgent motion for an extension of page limit to respond to the Prosecution's delayed disclosure and non-standard redactions requests'.

I. Procedural history

1. On 9 October 2014, the Chamber ordered the Office of the Prosecutor ('Prosecution') to file any applications for delayed disclosure relating to Prosecution witnesses, including any requests for redactions which require approval of the Chamber, by 16 February 2015 and directed that any responses thereto be filed no later than 23 February 2015.¹
2. On 16 February 2015, the Prosecution filed applications for delayed disclosure² and for non-standard redactions³ ('Prosecution Applications').
3. On 18 February 2015, the Chamber requested the Victims and Witnesses Unit ('VWU') to provide any observations on the Prosecution Applications by 25 February 2015.⁴
4. On 19 February 2015, the defence team for Mr Ntaganda ('Defence') filed an urgent motion requesting an extension of time limit to respond to the Prosecution Applications.⁵

¹ Order Scheduling a Status Conference and Setting the Commencement Date for the Trial, 9 October 2014, ICC-01/04-02/06-382, para. 9(b), including footnote 15. (A corrected version was filed on 28 November 2014: ICC-01/04-02/06-382-Corr).

² Prosecution application for delayed disclosure, ICC-01/04-02/06-461-Conf-Exp, with annexes A-C3. Confidential redacted (ICC-01/04-02/06-461-Conf-Red) and public redacted (ICC-01/04-02/06-461-Red2) versions were filed on 17 February 2015. A corrigendum of Annex A was filed on 19 February 2015.

³ Prosecution request for redactions, ICC-01/04-02/06-462-Conf-Exp, with annexes A-C3. Confidential redacted (ICC-01/04-02/06-462-Conf-Red) and public redacted (ICC-01/04-02/06-462-Red2) versions were notified on 17 February 2015. Corrigenda of annexes C1 and C3 were filed on 17 February 2015 and a corrigendum of annex A was filed on 19 February 2015.

⁴ E-mail from a Legal Officer of the Chamber to VWU on 18 February 2015 at 11:58.

⁵ Urgent Motion on Behalf of Mr NTAGANDA Requesting an Extension of Time Limit to Respond to the "Prosecution request for redactions" and the "Prosecution application for delayed disclosure", ICC-01/04-02/06-466-Conf.

5. On 23 February 2015, the Chamber informed the parties and participants, by way of e-mail, that an extension of deadline until 4 March 2015 had been granted for the Defence to respond to the Prosecution Applications ('Decision').⁶ The reasons for the Decision were provided on 27 February 2015.⁷
6. On 23 February 2015, the Prosecution withdrew its request for non-standard redactions in respect of P-0109.⁸
7. On 25 February 2015, the Prosecution filed the 'Prosecution request for authorisation to provide a summary of P-0901's statement' ('First Supplemental Prosecution Request').⁹
8. On 26 February 2015, the VWU's observations on the Prosecution Applications were notified.¹⁰
9. Also on 26 February 2015, the Prosecution filed its 'Prosecution withdrawal of its application for delayed disclosure in relation to P-0758, P-0761, P-0773, P-0887, P-0898, P-0907, P-0914 and P-0918'.¹¹
10. On 2 March 2015, the Prosecution filed two supplemental requests relevant to the original relief sought in the Prosecution Applications, namely the 'Prosecution request for redactions to P-0882's statement'¹² and the 'Prosecution proposed redactions to three documents relevant to P-0911'¹³ (together the 'Second Supplemental Prosecution Requests').

⁶ E-mail from Legal Officer of the Chamber to the Defence on 23 February 2015 at 16:27.

⁷ Decision on the Defence's urgent motion for an extension of time to respond to the Prosecution's delayed disclosure and non-standard redactions requests, ICC-01/04-02/06-481.

⁸ Prosecution withdrawal of request for redactions in relation to P-0109, ICC-01/04-02/06-470.

⁹ ICC-01/04-02/06-473-Conf-Exp. Confidential redacted and public versions (ICC-01/04-02/06-473-Conf-Red and ICC-01/04-02/06-473-Red2) were filed on the same day.

¹⁰ Victims and Witnesses Unit's observations on the "Prosecution request for redactions" ICC-01/04-02/06-462-Conf-Exp, ICC-01/04-02/06-474-Conf; Victims and Witnesses Unit's observations on the "Prosecution application for delayed disclosure" ICC-01/04-02/06-461-Conf-Exp, ICC-01/04-02/06-476-Conf-Exp, a confidential redacted version (ICC-01/04-02/06-476-Conf-Red) was notified on the same day.

¹¹ ICC-01/02-04/06-475-Conf-Exp. Confidential redacted and public redacted versions (ICC-01/02-04/06-475-Conf-Red and ICC-01/04-02/06-475-Red2) were filed on the same day.

¹² ICC-01/04-02/06-486, with confidential *ex parte* Annex A.

¹³ ICC-01/04-02/06-493, with confidential *ex parte* Annex A.

11. Also on 2 March 2015, the Defence submitted an urgent request for an extension of page limit to file a consolidated response to the Prosecution Applications and the First Supplemental Prosecution Request ('Defence Request').¹⁴
12. That same day the Chamber directed that any responses to the Defence Request be provided not later than 14:00 on 3 March 2015.¹⁵
13. The Prosecution and the Legal Representatives of Victims indicated that they do not oppose the Defence Request.¹⁶

II. Submissions and analysis

14. The Defence states that it intends to file a consolidated response to the Prosecution Applications and the First Supplemental Prosecution Request for reasons of 'judicial economy and clarity'.¹⁷ The Defence submits that exceptional circumstances exist to extend the page limit for its proposed consolidated response to 50 pages.¹⁸ In that regard, the Defence notes the filing of five additional documents relating to the Prosecution Applications, including the First Supplemental Prosecution Request, since 23 February 2015.¹⁹
15. As a preliminary matter, the Chamber notes that on 2 March 2015 the Second Supplemental Prosecution Requests were filed. As the Second Supplemental Prosecution Requests relate to the original relief sought in the Prosecution Applications, the Chamber considers it to be in the interests of efficiency for the Defence to also include any responses to the Second Supplemental Prosecution Requests in its response to the Prosecution Applications.

¹⁴ Expedited Request on Behalf of Mr NTAGANDA Seeking an Extension of the Page Limit in Responding to the Prosecution Application and Prosecution Request, ICC-01/04-02/06-490-Conf.

¹⁵ E-mail from Legal Officer of the Chamber to the parties and participants on 2 March 2015 at 17:34.

¹⁶ E-mail from the Prosecution to the Chamber on 2 March 2015 at 18:09; Email from the Legal Representatives of Victims to the Chamber on 3 March 2015 at 8:56.

¹⁷ Defence Request, ICC-01/04-02/06-490-Conf, paras 2 and 11.

¹⁸ Defence Request, ICC-01/04-02/06-490-Conf, paras 3-5, 10 and 12.

¹⁹ Defence Request, ICC-01/04-02/06-490-Conf, paras 1-3 and 5-10.

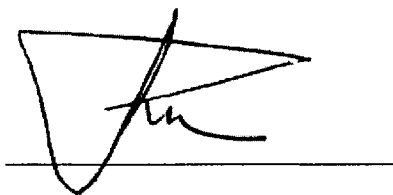
16. In respect of the Defence's submissions, the Chamber notes that two of the additional five filings referred to by it in fact constituted notifications of withdrawal of portions of the Prosecution Applications. In the Chamber's view, notifications of withdrawal would not support a request for an extension of page limit as they lessen the scope of the requests to which the Defence would need to respond.
17. Nonetheless, noting the Defence's intention to file a consolidated response, as well as the Chamber's finding that this consolidated response should also include the Second Supplemental Prosecution Requests, the Chamber considers that exceptional circumstances exist justifying an extension of the 20 page limit to 50 pages in this instance.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

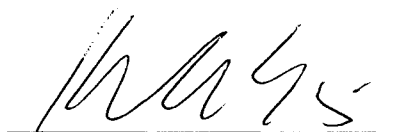
GRANTS the Defence Request; and

DIRECTS that the Defence file a consolidated response to the Prosecution Applications, the First Supplemental Prosecution Request and the Second Supplemental Prosecution Requests, not to exceed 50 pages in length, no later than 9 March 2015.

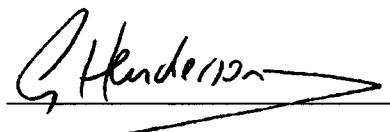
Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, consisting of a large, stylized 'F' followed by 'remr', written over a horizontal line.

Judge Robert Fremr, Presiding Judge

A handwritten signature in black ink, appearing to be 'K Ozaki', written over a horizontal line.

Judge Kuniko Ozaki

A handwritten signature in black ink, appearing to be 'G Henderson', written over a horizontal line.

Judge Geoffrey Henderson

Dated 3 March 2015
At The Hague, The Netherlands