

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04

Date: 4 November 2016

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN THE THE DEMOCRATIC REPUBLIC OF CONGO

Confidential *ex parte*, only available to the Prosecutor and the Registry

Decision on the "Prosecution's request to provide Bosco Ntaganda with access to evidence obtained pursuant to article 70"

To be notified, in accordance with Regulation 31 of the Regulations of the Court, to:

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Nicole Samson

Counsel for the Defence

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

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Cuno Tarfusser, Single Judge exercising the functions of the Pre-Trial Chamber in the situation in the Democratic Republic of the Congo, issues this decision on the "Prosecution's request to provide Bosco Ntaganda with access to evidence obtained pursuant to article 70", filed on 2 November 2016 (ICC-01/04-737-Conf-Exp).

1. The Prosecutor requests the Single Judge to order the Registry to provide Bosco Ntaganda with immediate access to the TRIM folder containing his and Thomas Lubanga's ICC Detention Centre call records and recordings of which the Prosecutor is in possession following the Single Judge's order ICC-01/04-729-Conf-Exp of 18 September 2015 (the "Material").
2. The Single Judge is not confronted with the question of whether the Material shall be made available to Bosco Ntaganda – this determination has already been made by the Prosecutor who intends to disclose it in its entirety to Bosco Ntaganda. The only matter before the Single Judge is whether the Material, given its volume, may be made available to Bosco Ntaganda through access to the TRIM folder in which it is contained, rather than by the Prosecutor through the ordinary disclosure channel. In these circumstances, and since access to the relevant TRIM folder indeed appears to be the most efficient and expeditious way to make the Material available to Bosco Ntaganda, the Single Judge sees no obstacle to granting the Prosecutor's request.

FOR THESE REASONS, THE SINGLE JUDGE

ORDERS the Registry to provide Bosco Ntaganda with immediate access to the TRIM folder containing his and Thomas Lubanga's ICC Detention Centre call records and recordings which are available to the Prosecutor.

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



Judge Cuno Tarfusser
Single Judge

Dated this 4 November 2016

At The Hague, The Netherlands