

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **13 July 2018**

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Chang-ho Chung

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

Public

Decision on requests for extension of page limit

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 Christopher Gosnell

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**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber VI ('Chamber') of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Bosco Ntaganda*, having regard to Articles 64 and 67 of the Rome Statute and Regulation 37 of the Regulations of the Court ('Regulations'), issues the following 'Decision on requests for extension of page limit'.

I. Procedural history and submissions

1. On 28 December 2017, the Chamber provided directions related to the closing briefs and statements, including page limits for the closing briefs ('Directions').¹ Specifically, the Chamber ordered that the closing briefs of the Office of the Prosecutor ('Prosecution') and the defence team for Mr Ntaganda ('Defence') shall not exceed 400 pages each, and that the Prosecution response brief ('Prosecution Response Brief') and the Defence reply brief ('Defence Reply Brief') shall not exceed 100 pages each.²
2. On 13 April 2018, further to the parties and participants' requests,³ the Chamber extended the page limits set out in the Directions, and ordered that the Prosecution and Defence closing briefs are not to exceed 450 pages each.⁴

¹ Order providing directions related to the closing briefs and statements, ICC-01/04-02/06-2170.

² Directions, ICC-01/04-02/06-2170, paras 14 and 15.

³ Prosecution's application for reconsideration of a discrete portion of the Chamber's "Order providing directions related to the closing briefs and statements", ICC-01/04-02/06-2260, paras 6, 17, and 19; Joint Response of the Common Legal Representatives of Victims to the "Prosecution's application for reconsideration of a discrete portion of the Chamber's 'Order providing directions related to the closing briefs and statements'", ICC-01/04-02/06-2261, paras 2-4 and page 4; Response on behalf of Mr Ntaganda to Prosecution request for reconsideration of the Chamber's "Order providing directions related to the closing briefs and statements", ICC-01/04-02/06-2263, paras 24-26.

⁴ Decision providing further directions on the closing briefs, ICC-01/04-02/06-2272, page 9, and Dissenting Opinion of Judge Kuniko Ozaki, ICC-01/04-02/06-2272-Anx, in which Judge Ozaki disagreed with the Majority's conclusion that an extension of the page limit for the closing briefs was warranted. Without prejudice to the aforementioned considerations, for the purpose of the present decision, the Prosecution Request and the Defence Request are considered in the circumstances resulting from the Majority's decision to grant the previous requests for extension.

3. On 4 May 2018, the Chamber partly granted a Defence request for a further extension of the page limit,⁵ and decided that the Defence closing brief ('Defence Closing Brief') shall not exceed 500 pages.⁶
4. On 2 July 2018, the Defence Closing Brief, comprising a total of 463 pages, was filed.⁷
5. On 10 July 2018, the Prosecution sought an extension of the page limit to 115 pages for the Prosecution Response Brief ('Prosecution Request').⁸ In support of its Request, the Prosecution argues that: (i) the requested extension of 15 pages corresponds to 25 per cent of the additional 63 pages of the Defence Closing Brief, thus 'mirroring the percentage' the Prosecution was granted in the Directions;⁹ (ii) had the Defence Closing Brief been filed in compliance with the Chamber's direction that an average page shall not exceed 300 words ('Direction'), it would have amounted to 496 pages;¹⁰ (iii) the Prosecution must address 'a significant number of inaccurate references to evidence and law' arising from the Defence Closing Brief;¹¹ (iv) the Prosecution's 'often extensive' footnote references increase the overall number of pages in order to comply with the Direction;¹² and (v) the requested extension will ensure that the

⁵ Request on behalf of Mr Ntaganda seeking an extension of the page limit for the submission of the Defence Closing Brief, ICC-01/04-02/06-2280. The Defence requested that the Chamber increase the page limit for its closing brief to a maximum of 550 pages.

⁶ Decision on Defence request for an extension of page limit for its closing brief, ICC-01/04-02/06-2283.

⁷ Defence Closing Brief, ICC-01/04-02/06-2298-Conf with confidential Annex 1 and Annexes A to G. A corrected version of the Defence's closing brief was filed on 9 July 2018 as ICC-01/04-02/06-2298-Conf-Anx1-Corr and ICC-01/04-02/06-2298-Conf-Anx1-Corr-Anx.

⁸ Prosecution's request for a limited extension of the page limit for its response to the Defence's closing brief, ICC-01/04-02/06-2300.

⁹ Prosecution Request, ICC-01/04-02/06-2300, paras 3-5.

¹⁰ Prosecution Request, ICC-01/04-02/06-2300, para. 6, referring to Directions, ICC-01/04-02/06-2170, para. 14 and footnote 12, wherein the Chamber directed the parties and participants to comply with the format requirements set out in Regulation 36 of the Regulations, and further specified that 'an average page shall not exceed 300 words'.

¹¹ Prosecution Request, ICC-01/04-02/06-2300, para. 7.

¹² Prosecution Request, ICC-01/04-02/06-2300, para. 8.

Prosecution Response Brief 'is of maximum assistance to the Chamber in its determination of the truth and review of evidence'.¹³

6. On 12 July 2018, in line with the time limit set by the Chamber,¹⁴ the Defence filed its response ('Defence Response').¹⁵ While arguing that the Prosecution failed to demonstrate the existence of exceptional circumstances justifying an extension of the applicable page limit, the Defence submits that it does not oppose the requested extension, provided that the same extension is granted for the Defence Reply Brief ('Defence Request'), and that the parties and participants adhere to the Direction.¹⁶
7. Also on 12 July 2018, the Legal Representative of the Former Child Soldiers and the Legal Representative of the Victims of the Attacks informed the Chamber that they do not intend to respond to the Prosecution Request.¹⁷
8. On the same day, the Prosecution opposed the Defence Request ('Prosecution Response to Defence Request'),¹⁸ on the basis that the Defence did not provide any reasons as to why it needs an additional 15 pages to reply to the Prosecution Response Brief.¹⁹

¹³ Prosecution Request, ICC-01/04-02/06-2300, para. 9.

¹⁴ Email from the Chamber to the parties and participants on 11 July 2018, at 11:03.

¹⁵ Response on behalf of Mr Ntaganda to "Prosecution's request for a limited extension of the page limit for its response to the Defence's closing brief", ICC-01/04-02/06-2301.

¹⁶ Defence Response, ICC-01/04-02/06-2301, paras 1-2 and 9-11.

¹⁷ Email from the Legal Representative of the Former Child Soldiers to the Chamber and the parties and participants, at 15:01; and email from the Legal Representative of the Victims of the Attacks to the Chamber and the parties and participants, at 15:05.

¹⁸ Prosecution's response to the Defence's new request for an extension of the page limit, 12 July 2018 (notified on 13 July 2018), ICC-01/04-02/06-2302.

¹⁹ Prosecution Response to Defence Request, ICC-01/04-02/06-2302, paras 2 and 10.

II. Analysis

9. The Chamber notes that the extended page limit sought by the Prosecution would be broadly in line with the *ratio* between the Defence Closing Brief and the Prosecution Response Brief set out in the Directions.²⁰
10. The Chamber further recalls that, when granting previous requests for extension of page limits, it noted that it is in the interest of the parties and participants and the Chamber to have closing briefs which are comprehensive and accurate to the greatest extent possible.²¹
11. In these circumstances, and noting further that the Defence does not oppose the Prosecution Request subject to being granted the same extension for the Defence Reply Brief, the Chamber considers it appropriate to grant an extension of 15 pages for the Prosecution Response Brief.
12. Further, the Chamber finds it appropriate to also grant the Defence Request to be accorded the same extension for the Defence Reply Brief.

²⁰ Without considering the Prosecution's arguments relating to the average number of words per page in the Defence Closing Brief, the Chamber notes that the 115 pages requested by the Prosecution for the Prosecution Response Brief correspond to approximately 24,84 per cent of the 463 pages of the Defence Closing Brief, which is broadly in line with the 25 per cent *ratio* set out in the Directions.

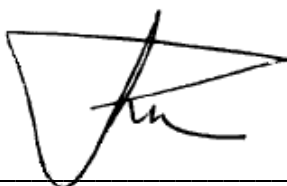
²¹ ICC-01/04-02/06-2272, para. 10; and ICC-01/04-02/06-2283, para. 8.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

GRANTS the Prosecution Request and the Defence Request; and

DIRECTS that the Prosecution Response Brief and the Defence Reply Brief shall not exceed 115 pages each.

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



Judge Robert Fremr, Presiding Judge



Judge Kuniko Ozaki



Judge Chang-ho Chung

Dated this 13 July 2018

At The Hague, The Netherlands