

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 18 February 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 Application by the Redress Trust to Submit
Amicus Curiae Observations**

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

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

The Redress Trust

REGISTRY

Registrar

Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Other
Section**

Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”),¹ hereby renders this decision on the “Application by the Redress Trust for leave to submit observations pursuant to Rule 103 of the Rules of Procedure and Evidence” (the “Application”).²

1. Between 10 and 14 February 2014, the Chamber held the confirmation of charges hearing in this case pursuant to article 61(1) of the Rome Statute (the “Statute”).³

2. On 13 February 2014, the Redress Trust submitted the Application seeking authorization to submit observations under rule 103 of the Rules of Procedure and Evidence (the “Rules”). In essence, the Redress Trust (the “Applicant”) indicates that it seeks to inform the Chamber of developments in international law, including jurisprudence from diverse jurisdictions, “which demonstrate the ways in which facts justifying charges of rape and sexual violence may, in particular circumstances, also properly support charges of torture, and when these crimes may be charged individually, cumulatively or alternatively”.⁴ It adds that it wishes to assist the Chamber in its article 61(7) determination, in particular “whether the evidence appears to establish a different crime within the jurisdiction of the Court than those charged, in view of the powers of the Chamber pursuant to article 61(7)(c)(ii) of the Statute”.⁵

3. The Single Judge notes rule 103 of the Rules which stipulates that “[a]t any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case, (...) grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate”. It is recalled that under rule 103(1) of the Rules the Chamber will

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

² ICC-01/04-02/06-257.

³ Pre-Trial Chamber II, Transcript of Hearing, 10 February 2014, ICC-01/04-02/06-T-7-ENG-ET; until Pre-Trial Chamber II, Transcript of Hearing, 14 February 2014, ICC-01/04-02/06-T-11-ENG-ET.

⁴ ICC-01/04-02/06-257, para. 1; see also paras 12-14.

⁵ ICC-01/04-02/06-257, para. 3; see also paras 20-21.

resort, at its discretion, to *amicus curiae* observations only on an exceptional basis, when it is of the view that such observations providing specific expertise are needed on particular topics, and subject to the Chamber's consideration that this is desirable for the proper determination of the case.⁶

4. In this respect, the Single Judge highlights that the Applicant wishes to submit observations mainly on the proper interpretation of the law, including references to jurisprudence. Having reviewed the proposed issues, the Single Judge concludes that receiving such observations from the Applicant is not desirable for the proper determination of the case at this stage of the proceedings.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

rejects the Application.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Tuesday, 18 February 2014

At The Hague, The Netherlands

⁶ Pre-Trial Chamber II, "Decision on the 'Request by Ms. Moraa Gesicho to Appear as Amicus Curiae'", 12 April 2011, ICC-01/09-01/11-49, para. 14; Pre-Trial Chamber II, "Decision on the 'Request by Ms. Moraa Gesicho to Appear as Amicus Curiae'", 12 April 2011, ICC-01/09-02/11-54, para. 15; Pre-Trial Chamber II, "Decision on the 'Request for leave to submit Amicus Curiae Observations on behalf of the Kenya Section of the International Commission of Jurists Pursuant to Rule 103 of the Rules of Procedure and Evidence'", 11 May 2011, ICC-01/09-01/11-84, para. 8; Pre-Trial Chamber II, "Decision on the 'Request for leave to submit Amicus Curiae Observations on behalf of the Kenya Section of the International Commission of Jurists Pursuant to Rule 103 of the Rules of Procedure and Evidence'", 11 May 2011, ICC-01/09-02/11-87, para. 8.