

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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

Date: 3 June 2015

**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 Redacted version of**

**Decision on Prosecution Request for leave to reply in relation to its request to vary  
the time limit for disclosure of [REDACTED] recent interview**

Decision to be notified, in accordance with Regulation 35 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**

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

**States' Representatives**

*Amicus Curiae*

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

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**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 Regulations 24(5) and 34 of the Regulations of the Court ('Regulations'), issues the following 'Decision on Prosecution Request for leave to reply in relation to its request to vary the time limit for disclosure of [REDACTED] recent interview'.

1. On 18 May 2015, the Office of the Prosecutor ('Prosecution') filed a request for variation of time limit for disclosure of [REDACTED] recent interview ('Prosecution Request').<sup>1</sup>
2. Upon instruction of the Chamber,<sup>2</sup> on 28 May 2015, the defence team for Mr Ntaganda ('Defence') responded to the Prosecution Request, arguing that it should be rejected ('Defence Response').<sup>3</sup>
3. On 29 May 2015, the Prosecution filed a request seeking leave to file a reply to the Defence's Response ('Prosecution Request for Leave to Reply').<sup>4</sup> The Prosecution seeks leave to reply to: (i) the Defence's submissions that good cause pursuant to Regulation 35(2) of the Regulations, has not been shown, by addressing whether a request for an extension of time can be made before an item of evidence, in this case the audio-recorded interview, comes into existence; and (ii) the Defence's argument that the Prosecution should have requested delayed disclosure before the relevant deadline, by addressing the issue whether the disclosure of an interview with [REDACTED] fell within the scope of 'delayed disclosure' within the meaning used in the present case.<sup>5</sup> The

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<sup>1</sup> Prosecution's request pursuant to regulation 35 to vary the time limit for disclosure of [REDACTED] recent interview, ICC-01/04-02/06-598-Conf. A public redacted version was filed on 19 May 2015 (ICC-01/04-02/06-598-Red).

<sup>2</sup> Email from a Legal Officer of the Chamber sent on 21 May 2015 at 17.01, in which the Chamber shortened the deadline to file any response to the Prosecution Request to 28 May 2015.

<sup>3</sup> Corrected version of 'Response on behalf of Mr Ntaganda to Prosecution Request to vary the time limit for disclosure of [REDACTED] recent interview', ICC-01/04-02/06-612-Conf-Corr. A public redacted version was filed on the same day (ICC-01/04-02/06-612-Corr-Red).

<sup>4</sup> Prosecution request to file a reply to the 'Corrected version of "Response on behalf of Mr Ntaganda to Prosecution Request to vary the time limit for disclosure of [REDACTED] recent interview"', ICC-01/04-02/06-614-Conf. A public redacted version was filed on 2 June 2015 (ICC-01/04-02/06-614-Red).

<sup>5</sup> Prosecution Request for Leave to Reply, ICC-01/04-02/06-614-Red, paras 4-5.

Prosecution finally indicates that it will have provided the audio-recording and transcript of [REDACTED] interview to the Defence by 1 June 2015.<sup>6</sup>

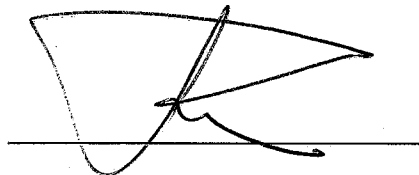
4. Pursuant to Regulation 24(5) of the Regulations, a reply may only be filed with the leave of the Chamber. In the case at hand, the Chamber considers that it may benefit from receiving additional submissions on the two issues identified by the Prosecution.

**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY**

**GRANTS** the Prosecution Request for Leave to Reply; and

**DIRECTS** the Prosecution to submit its reply by 5 June 2015.

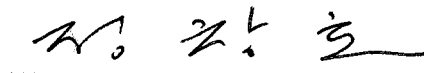
Done in both English and French, the English version being authoritative.

A stylized signature of Judge Robert Fremr, consisting of a large, sweeping 'R' shape with a horizontal line extending to the right.

Judge Robert Fremr, Presiding Judge

A stylized signature of Judge Kuniko Ozaki, featuring a series of connected loops and a long horizontal stroke at the end.

Judge Kuniko Ozaki

A stylized signature of Judge Chang-ho Chung, with a series of connected loops and a long horizontal stroke at the end.

Judge Chang-ho Chung

Dated 3 June 2015

At The Hague, The Netherlands

<sup>6</sup> Prosecution Request for Leave to Reply, ICC-01/04-02/06-614-Red, para. 7. *See also*, Prosecution's communication of the disclosure of evidence, 3 June 2015, ICC-01/04-02/06-620, with confidential Annex A.