

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **30 January 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

**Submissions on behalf of Mr Ntaganda on the possibility
of closing statements being heard in the region**

Source: Defence Team of Mr Bosco Ntaganda

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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**Unrepresented Applicants
(Participation / Reparation)**

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REGISTRY

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Section**

Further to the Trial Chamber VI (“Chamber”)’s “Order providing directions related to the closing briefs and statements”¹ (“Order”) and the Chamber’s 16 January 2018 decision, conveyed by electronic correspondence, granting the Registry’s request for an extension of time pursuant to Regulation 35(2) of the Regulations of the Court (“RoC”) to file their observations after the Parties and Participants,² Counsel representing Mr Ntaganda (“Defence”) hereby submit these:

**Submissions on behalf of Mr Ntaganda on the possibility
of closing statements being heard in the region**

(“Defence Submissions”)

INTRODUCTION

1. Bringing the administration of justice closer to the persons most interested, *i.e.* the local population where alleged crimes would have been committed, is a commendable undertaking. Accordingly, the Defence supports the Chamber “considering hearing closing statements in the region”³ as long as such a demanding undertaking is meaningful.
2. The Defence is thus in favour of the closing statements in this case being heard in a meaningful place in the region, subject to the implementation of certain conditions allowing for the full respect of the right of the Accused to a fair trial.

¹ ICC-01/04-02/06-2170.

² Email from Trial Chamber VI Communications to the Parties and Participants sent on Tuesday 16 January 2018.

³ ICC-01/04-02/06-2170, para. 17.

SUBMISSIONS

Location of the closing statements in the region

3. In its Order, the Chamber “notes that it is considering hearing closing statements in the region (including in the Democratic Republic of the Congo, or at a location relatively proximate to it)”.⁴
4. The Defence is in favour of the closing statements being heard in Bunia, the place closest to the persons most interested by the trial of Mr Ntaganda.
5. In the event holding the closing statements in Bunia is not possible, these hearings must be held in or very close to one of the locations where the events giving rise to the charges laid against Mr Ntaganda are alleged to have taken place.
6. In this regard, the Defence takes the view that hearing the closing statements far from Bunia, such as, for example in Kinshasa or Arusha, would not be meaningful and actually defeat the purpose sought.

Protection of the rights of the Accused

7. Subject to an adequate location being selected, the Defence does not oppose the holding of the closing statements in the region as long as the following conditions – the aim of which is to protect the right of the Accused to a fair trial – are met:
 - a. The Defence acknowledges that insisting on the presence of the Accused during closing statements in the region constitutes a requirement that could likely result in the Chamber’s initiative not happening. Accordingly, having discussed the matter with the Accused, the Defence does not make

⁴ ICC-01/04-02/06-2170, para. 17.

this request. However, the Defence insists on the Accused being present *via* video link. To this end, it would be necessary for (i) two members of the Defence team to be present by his side, in a private room, during the hearings; and (ii) the Accused to have the means at his disposal to communicate directly, in real time, with counsel present during the hearings held in the region;

- b. The presence at the location of the closing statements in the region of, at a minimum, the Lead Counsel, Associate Counsel and two Legal Assistants (party of four);
 - c. The travel and arrival at the location of the closing statements in the region of the members of the Defence team a minimum of three full days before the day on which the hearings are scheduled to take place; and
 - d. The provision, at no cost to the Defence, of the minimum living and working conditions *in situ* for the purpose of being able to effectively prepare for and participate in the proceedings without disruption, including *inter alia*: an office (for work and the holding of confidential meetings), four computers with the necessary software, access to internet, access to *eCourt* and Defence databases at the seat of the Court in The Hague, confidential communication means, access to a separate printer, availability of the means to make an audio-visual presentation and access to the *in situ* court room for practice purposes. 'At no cost to the Defence' should be understood as meaning that the costs of the *in situ* hearings in the region should not be debited from the Defence team budget.
8. In addition, the Defence posits that it is essential for the Parties and Participants to be involved in the development and implementation of any outreach / communication strategy, including *inter alia*, pre-event publicity, dissemination

of information capsules, media interviews and the holding of any press conference(s), in full respect for the principle of equality of arms.

9. Lastly, the Defence submits that measures taken to select those who will have the opportunity to attend the closing statements in person as well as to determine the locations, if any, where the hearings are to be re-transmitted, must be determined in consultation with the Parties and Participants.

CONCLUSION

In light of the foregoing, the Defence respectfully supports the Chamber's initiative to consider hearing closing statements in the region, in consultation with the Parties and the Participants.

RESPECTFULLY SUBMITTED ON THIS 30TH DAY OF JANUARY 2018



Me Stéphane Bourgon, Counsel for Bosco Ntaganda

The Hague, The Netherlands