

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **16 March 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 closing the presentation of evidence and providing further directions**

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**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

**Trial Chamber VI** ('Chamber') of the International Criminal Court, in the case of *The Prosecutor v. Bosco Ntaganda*, having regard to Articles 3(3), 4(2), 62 and 64 of the Rome Statute, Rules 100 and 141 of the Rules of Procedure and Evidence ('Rules'), and Regulation 20 of the Regulations of the Court, issues the following 'Decision closing the presentation of evidence and providing further directions'.

1. On 2 September 2015, the trial commenced with opening statements from the parties and participants.<sup>1</sup>
2. On 29 March 2017, the Office of the Prosecutor ('Prosecution') notified the Chamber 'of the close of its case-in-chief'.<sup>2</sup>
3. On 22 December 2017, the Chamber issued its 'Order providing directions related to the closure of the presentation of evidence', in which it, *inter alia*, decided that any complementary request for the presentation of rebuttal evidence is to be submitted within one week of the close of the presentation of evidence by the defence team for Mr Ntaganda ('Defence'), if necessary.<sup>3</sup>
4. On 28 December 2017, the Chamber provided directions related to the closing briefs and statements ('Closing Directions'), including a timeline for the submission of closing briefs 'from the date upon which the Presiding Judge declares the presentation of evidence in the case to be closed pursuant to Rule 141 of the Rules'.<sup>4</sup> The Chamber further indicated that the closing statements will take place approximately two weeks after the filing of the last of the aforementioned briefs.<sup>5</sup>

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<sup>1</sup> Transcripts of hearings on 2 and 3 September 2015, ICC-01/04-02/06-T-23 and ICC-01/04-02/06-T-24 respectively.

<sup>2</sup> Prosecution's Notice of the Close of its Case-in-Chief, ICC-01/04-02/06-1839.

<sup>3</sup> ICC-01/04-02/06-2166, para. 16

<sup>4</sup> Order providing directions related to the closing briefs and statements, ICC-01/04-02/06-2170, paras 8, 13 and 15, and page 7.

<sup>5</sup> Closing Directions, ICC-01/04-02/06-2170, para. 16.

5. On 23 February 2018, the Defence notified the Chamber of the end of its presentation of evidence.<sup>6</sup>
6. On 16 March 2018, the Chamber issued its Decision on the Second Prosecution request for presentation of evidence in rebuttal.<sup>7</sup>
7. The Chamber notes that, at this point, decisions on any requests to adduce evidence have been issued.
8. Accordingly, the Chamber hereby declares that the presentation of evidence in this case is closed pursuant to Rule 141 of the Rules.
9. At this stage, and in the interest of the publicity of the proceedings, the Chamber directs the parties and participants to coordinate with each other and the Registry, as appropriate, review the case record, and indicate for any outstanding items not yet considered by virtue of the Chamber's previous directions on this matter,<sup>8</sup> including any evidence admitted during the Defence's presentation of evidence pursuant to Rule 68(2) of the Rules,<sup>9</sup> whether they can be reclassified as public, and to provide reasons for any admitted items to remain confidential.
10. Finally, the Chamber notes that, in its Closing Directions, it indicated that it was 'considering hearing closing statements in the region'.<sup>10</sup> Having received

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<sup>6</sup> Notice on behalf of Mr Bosco Ntaganda concerning the end of the presentation of evidence by the Defence, ICC-01/04-02/06-2243.

<sup>7</sup> Decision on Second Prosecution request for presentation of evidence in rebuttal and related requests, 16 March 2018, ICC-01/04-02/06-2258.

<sup>8</sup> *See, inter alia*, Decision on second Defence request for admission of evidence from the bar table, 21 February 2018, ICC-01/04-02/06-2240; Decision on Defence request for admission of evidence from the bar table, 31 January 2018, ICC-01/04-02/06-2201-Conf (a public redacted version was filed on the same day as ICC-01/04-02/06-2201-Red) and email from the Chamber to the parties and participants on 22 August 2017, at 12:32.

<sup>9</sup> *See* Decision on Defence request for admission of prior recorded testimony of Witnesses D-0001, D-0013, D-0123, D-0134, D-0148, D-0150, D-0163, and D-0179 pursuant to Rule 68(2)(b), ICC-01/04-02/06-2141-Conf+Conf-Anx (a public redacted version was filed on the same day as ICC-01/04-02/06-2141-Red and Anx-Red); Decision on Defence request for admission of additional paragraphs of Witness D-0148's Prosecution Statement, 20 February 2018, ICC-01/04-02/06-2238, and Decision on certain requests related to the admission of the prior recorded testimony of Witness D-0080, 22 February 2018, ICC-01/04-02/06-2242-Conf (a public redacted version was filed on the same day as ICC-01/04-02/06-2242-Red).

<sup>10</sup> Closing Directions, ICC-01/04-02/06-2170, para. 17.

submissions from the parties and participants and the Registry on this issue,<sup>11</sup> including on the present security situation in the eastern Democratic Republic of the Congo, and noting the preparation time required for any such hearing to be arranged,<sup>12</sup> the Chamber indicates, at this stage, that it does not intend to recommend to the Presidency that the closing statements be held *in situ*. Notwithstanding, the Chamber indicates that it may consider holding certain other future hearings *in situ*, if appropriate and feasible.

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

**DECLARES** the presentation of evidence to be closed;

**RECALLS** the timeline established in the Closing Directions; and

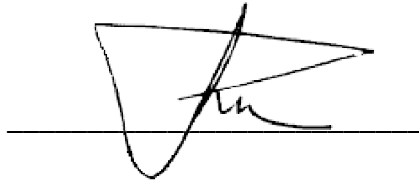
**DIRECTS** the parties and participants to file, within four weeks of notification of the present decision, any outstanding submissions on the appropriate level of confidentiality of items admitted into evidence.

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<sup>11</sup> Submissions on behalf of Mr Ntaganda on the possibility of closing statements being heard in the region, 30 January 2018, ICC-01/04-02/06-2198; Joint submissions of the Common Legal Representatives for Victims on the possibility of hearing the closing statements *in situ*, 30 January 2018, ICC-01/04-02/06-2199-Conf; Prosecution submissions on hearing closing statements *in situ*, 30 January 2018, ICC-01/04-02/06-2200-Conf; Addendum to the “Prosecution submissions on hearing closing statements *in situ*”, 30 January 2018, ICC-01/04-02/06-2200-Conf, 30 January 2018, ICC-01/04-02/06-2209-Conf and confidential Annex I; Registry submissions on the possibility of holding the closing statements *in situ*, 8 February 2018 (notified on 9 February 2018), ICC-01/04-02/06-2217-Conf.

<sup>12</sup> ICC-01/04-02/06-2217-Conf, para. 5.

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

A handwritten signature in black ink, consisting of a large, stylized 'F' followed by 'remr', written over a horizontal line.

**Judge Robert Fremr, Presiding Judge**

A handwritten signature in black ink, appearing to read 'Kuniko Ozaki', written over a horizontal line.

**Judge Kuniko Ozaki**

A handwritten signature in black ink, consisting of three distinct characters, written over a horizontal line.

**Judge Chang-ho Chung**

Dated this 16 March 2018

At The Hague, The Netherlands