



Original: English

No.: ICC-01/04-02/06
Date: 20 April 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
with Confidential Annex 1 and Public Annexes A, B, C and D**

Prosecution's Final Closing Brief

Source: Office of the Prosecutor

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

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Introduction

1. The Prosecution hereby submits its Final Closing Brief, further to the Chamber's orders.¹
2. The Final Closing Brief is attached as Confidential Annex 1, with the following Public annexes: Annex A (Glossary of terms cited in the Brief); Annex B (Table of concordance for audio-visual material cited in the Brief); Annex C (List of trial transcripts cited in the Brief, with hyperlinks); and Annex D (List of Authorities cited in the Brief, with hyperlinks).

Confidentiality

3. Annex 1 is attached as "Confidential" under regulation 23bis(1) of the Regulations of the Court as it refers to confidential witness testimony and evidence. The Prosecution will provide a public redacted version of Annex 1, without footnotes, as soon as practicable.

Prosecution's Submissions

4. On 16 March 2018, the Chamber formally closed the presentation of the evidence in the case pursuant to rule 141 of the Rules of Procedure and Evidence.² From this date, the Prosecution had four weeks to submit its Final Closing Brief.
5. On 15 March 2018, the Chamber instructed the Parties and participants to use *"the most recent available versions"* of the transcripts for their respective closing

¹ ICC-01/04-02/06-2170, paras.8 and 14. The Chamber granted the Prosecution's requests for an extension of the page limit to 450 pages, and an extension of the deadline to 20 April 2018 by email on 11 April 2018 at 10:13, followed by a written decision (ICC-01/04-02/06-2272).

² ICC-01/04-02/06-2259.

briefs.³ In view of the present stage of the proceedings, the Chamber also strongly encouraged the Registry to ensure that the review of the transcripts in the case was completed as soon as possible. Lastly, in the same instruction, the Chamber directed that *“should subsequent transcript corrections be notified after the filing of the closing briefs and result in changes that need to be brought to the Chamber’s attention, the parties and participants will be able to notify the Chamber accordingly.”*

6. The pace of notification of transcript corrections increased following this instruction from the Chamber. As a result, on 3 April 2018, the Prosecution sought a brief extension of the deadline to file its Final Closing Brief (from 16 April to 20 April 2018), in part to be able to incorporate transcript corrections that were being notified at a steady pace since 15 March 2018.⁴
7. The pace of notification of transcript corrections peaked between Sunday, 15 April 2018 and Wednesday, 18 April 2018, when the Registry notified 64 corrected transcripts, more than double the number of transcript corrections posted between 15 March and 13 April 2018.
8. The Prosecution could not have anticipated that the pace of transcript notifications would increase so dramatically in the very week its Final Closing Brief was due, when the Brief was essentially complete, and when the Prosecution had calculated and planned other quality-control reviews for the final days before filing.
9. As a result, the Prosecution had to divert resources to re-review a large number of corrected transcripts against footnote references that had already been finalised. Even if many corrections do not affect the meaning of a passage, it has been the case that some do, thereby requiring a full accuracy review. In

³ Email from Trial Chamber VI on 15 March 2018 at 9:24.

⁴ ICC-01/04-02/06-2267.

limited cases, page and line references have also changed due to corrections to the transcripts.

10. The Prosecution has made every effort to review the transcript corrections that were notified during the period it has been finalising its Final Closing Brief. As directed by the Chamber, the Prosecution will continue its review of corrected transcripts notified after the date of filing, and, if necessary, will submit a corrigendum that not only addresses any material changes to footnote references, but that also contains further submissions if the corrections materially modified the meaning of a passage. In limited cases, due to the sheer volume of corrected transcripts notified this week, this may include material changes as a result of corrected transcripts notified *before* the Prosecution's Final Closing Brief was filed.
11. The Prosecution also notes that the Registry will aim to finalise the complete and accurate list of evidence admitted during the trial by 26 April 2018.⁵ The Prosecution has used the list of admitted evidence as agreed between the Parties and participants for the purposes of its Final Closing Brief. It will file a corrigendum, if necessary, once the Chamber and Registry have decided on the final list of admitted items.

⁵ Email from Registry dated 19 April 2018 at 14:54.

Conclusion

12. The Prosecution submits its Final Closing Brief, noting the matters set out in this filing.



Fatou Bensouda
Prosecutor

Dated this 20th day of April 2018
At The Hague, The Netherlands