

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: **ICC-01/04-02/06**
Date: **12 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
With Confidential Annex A**

**Joint submission by Prosecution and Defence on items Marked for Identification
during the Defence case**

Source: The Office of the Prosecutor
Defence for Mr Bosco Ntaganda

Document 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 the Defence

Mr Stéphane Bourgon
Mr Christopher Gosnell

Legal Representatives of the Victims

Ms Sarah Pellet
Mr Dmytro Suprun

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Background

1. Between 9 October 2017 and 12 January 2018, the Prosecution and the Defence engaged in consultations regarding transcriptions and translations of video excerpts that were marked for identification by the Chamber during the Defence case.
2. On 22 December 2017, the Chamber directed the Parties *“to make joint submissions on transcripts and translations that have been marked for identification pending review, indicating any remaining disagreements as to their accuracy or any agreements on corrections thereon”* as well as *“submissions on any other outstanding items marked for identification during the Defence’s presentation of evidence”*, setting a deadline of 12 January 2018.¹

Confidentiality

3. Pursuant to regulation 23bis (2) of the Regulations of the Court, the annex to this document is classified as confidential because it references material that was disclosed confidentially.

¹ ICC-01/04-02/06-2166, paras.13-14.

Joint submissions

I. Transcriptions and translations of video material

4. The Prosecution and Defence agree on the accuracy of the following transcriptions and translations, which we submit can now be admitted into evidence:

i. **Transcriptions:** DRC-D18-0001-5531 and DRC-OTP-2101-1106

ii. **Translations:** DRC-OTP-2101-1391 and DRC-OTP-2101-1436²

5. The Prosecution and Defence reached an agreement on amendments to the following transcriptions, which we submit can now be admitted into evidence: DRC-D18-0001-5599 and DRC-D18-0001-5620.

6. In the following transcriptions and translations, the Prosecution and Defence have agreed on certain amendments while other amendments remain in dispute:

i. **Transcriptions:** DRC-D18-0001-5550 and DRC-D18-0001-5576

ii. **Translations:** DRC-D18-0001-5562 and DRC-D18-0001-5587

7. Annex A attached to this filing contains a table setting out the areas of agreement and the remaining disagreements. This table comprehensively sets out the Parties' consultations on the video excerpts admitted during the Defence's presentation of evidence.

² The Prosecution notes that this item has already been admitted into evidence (*see* ICC-01/04-02/06-T-240-CONF-ENG, p. 2, ln. 20 to p. 3, ln. 7).

8. The Prosecution further requests the Chamber to formally admit portions of the transcript³ and translation⁴ of video DRC-OTP-0151-0665 that were marked for identification during the Prosecution's presentation of evidence,⁵ namely the testimony of Witness P-0030. Whilst the Prosecution and Defence agreed on the accuracy of these portions,⁶ they were inadvertently not listed among the transcripts and translations that the Parties agreed could be admitted into evidence,⁷ and, as a result, were not admitted into evidence.⁸

II. Other items marked for identification during the Defence's presentation of evidence

9. The Parties have identified two items that have been marked for identification during the Defence's presentation of evidence, namely DRC-D01-0003-5896 and DRC-D01-0003-5900, and provide their respective submissions on these items below.
10. The Prosecution maintains its opposition to the admission of items DRC-D01-0003-5896 and DRC-D01-0003-5900 for the reasons previously set out when it objected to their admission through the Accused⁹ and from the bar table.¹⁰

³ DRC-OTP-1050-0525, lns. 1-315.

⁴ DRC-OTP-1050-0298, lns. 1-316.

⁵ ICC-01/04-02/06-T-145-CONF-ENG, p. 3, ln. 3 to p. 4, ln. 3.

⁶ See ICC-01/04-02/06-1874-Conf-AnxA, p.27, excerpt 00:00:00 – 00:07:57.

⁷ See ICC-01/04-02/06-1874, para. 5. The portions of transcript and translation for excerpt 00:00:00 – 00:07:57 of video DRC-OTP-0151-0665 were inadvertently omitted from this paragraph, because the transcript and translation of this video were also listed under a different category, namely the category of items in respect of which the Parties disagreed as to whether they were ever marked for identification (see ICC-01/04-02/06-1874, para. 9 and fn. 5; ICC-01/04-02/06-1874-Conf-AnxA, p. 27, excerpt 00:11:00-00:23:00; and ICC-01/04-02/06-1874-Conf-AnxC, pp.7-8, excerpts 00:16:08-00:17:24, 00:22:21-00:23:52, 00:16:08-00:17:24 and 00:22:21-00:23:52).

⁸ See ICC-01/04-02/06-1897, para.3 and fn. 11 (referring to ICC-01/04-02/06-1874, para.5). See also, ICC-01/04-02/06-1897, para. 6 and fn. 15, referring to portions of the transcript and translation of video DRC-OTP-0151-0665 already admitted into evidence, not including the excerpt running from 00:00:00 to 00:07:57.

⁹ See T-221, p.66, ln. 14 to p. 67, ln. 2 and T-223, p. 48, ln. 6 to p. 49, ln. 3.

11. The Defence maintains its request for admission of item DRC-D01-0003-5896 from the bar table.¹¹



**Fatou Bensouda,
Prosecutor**



**Stéphane Bourgon,
Counsel for Bosco Ntaganda**

Dated this 12th day of January 2018
At The Hague, The Netherlands

¹⁰ See ICC-01/04-02/06-2128-Conf-AnxA, number 26 at pp. 15-18 (last column) and ICC-01/04-02/06-2140-Conf, paras. 21-24.

¹¹ ICC-01/04-02/06-2128-Conf-AnxA, number 26 at pp.15-18 and ICC-01/04-02/06-2128-Conf, para.12-17.