



Original: English

**No. ICC-01/04-02/06 A
Date: 22 October 2020**

THE APPEALS CHAMBER

Before:

**Judge Howard Morrison, Presiding
Judge Chile Eboe-Osuji
Judge Piotr Hofmański
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa**

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF THE PROSECUTOR V. BOSCO NTAGANDA

**Public redacted version of
Directions regarding the application for additional evidence on appeal
of 9 September 2020 (ICC-01/04-02/06-2574-Conf)**

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

The Office of the Prosecutor

Ms Fatou Bensouda, Prosecutor

Ms Helen Brady

Counsel for the Defence

Mr Stéphane Bourgon

Ms Kate Gibson

Legal Representatives of Victims

Ms Sarah Pellet

Mr Dmytro Suprun

Registrar

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Bosco Ntaganda against the ‘Judgment’ of Trial Chamber VI of 8 July 2019 (ICC-01/04-02/06-2359),

Having before it the ‘Defence request for admission of additional evidence on appeal’ of 28 August 2020 (ICC-01/04-02/06-2570-Conf),

Pursuant to regulations 23 *bis*(3) and 62 of the Regulations of the Court,

Issues the following

DIRECTIONS

1. The Appeals Chamber decides that it will first rule on the admissibility of the additional evidence sought in application ICC-01/04-02/06-2570-Conf.
2. The Prosecutor is directed to address the issue of the admissibility of the additional evidence sought in application ICC-01/04-02/06-2570-Conf by 16h00 on Wednesday, 16 September 2020.
3. Each of the legal representatives of victims may file, by 16h00 on Thursday, 17 September 2020, observations presenting their views and concerns with respect to the above-mentioned application insofar as their personal interests are affected.
4. Mr Bosco Ntaganda and the Prosecutor may each reply to the victims’ observations by 16h00 on Monday, 21 September 2020.
5. Mr Bosco Ntaganda is directed to file a public redacted version of the above-mentioned application (ICC-01/04-02/06-2570-Conf) by 16h00 on Friday, 11 September 2020.

REASONS

1. On 8 July 2019, Trial Chamber VI convicted Mr Bosco Ntaganda of war crimes and crimes against humanity (the ‘Conviction Decision’).¹
2. On 9 September 2019, Mr Ntaganda lodged an appeal against the Conviction Decision.² He filed the first part of his appeal brief on 11 November 2019³ and the second part of his appeal brief on 31 January 2020.⁴
3. On 28 August 2020, Mr Ntaganda filed a request for admission of additional evidence on appeal (the ‘Application for Additional Evidence’),⁵ in which he requests that the Appeals Chamber admit the additional evidence of [REDACTED] otherwise referred to in the record of the present case as [REDACTED] through [REDACTED] examination as a witness or, in the alternative, admit [REDACTED] written statement and voting card.⁶
4. In view of Mr Ntaganda’s request that [REDACTED] be allowed to testify, the Appeals Chamber considers that it is appropriate to follow the procedure set out in regulation 62(2)(a) of the Regulations of the Court.⁷ Therefore, the Appeals Chamber will decide to first rule on the admissibility of the additional evidence specified in the Application for Additional Evidence.

¹ [Judgment](#), ICC-01/04-02/06-2359, with [annex A](#) (ICC-01/04-02/06-2359-AnxA) and [annex B](#) (ICC-01/04-02/06-2359-AnxB).

² [Mr. Ntaganda’s Notice of Appeal against the Judgment pursuant to Article 74 of the Statute, ICC-01/04-02/06-2359](#), ICC-01/04-02/06-2396.

³ [Defence Appeal Brief – Part I](#), ICC-01/04-02/06-2443, with [annex A](#) (ICC-01/04-02/06-2443-AnxA), [annex B](#) (ICC-01/04-02/06-2443-AnxB), [annex C](#) (ICC-01/04-02/06-2443-AnxC), [annex D](#) (ICC-01/04-02/06-2443-AnxD) and [annex E](#) (ICC-01/04-02/06-2443-AnxE).

⁴ [Defence Appeal Brief - Part II](#), 27 March 2020, ICC-01/04-02/06-2465-Red-Corr; Defence Appeal Brief - Part II, ICC-01/04-02/06-2465-Conf-Corr, with annex A (ICC-01/04-02/06-2465-AnxA), annex B (ICC-01/04-02/06-2465-AnxB), annex C (ICC-01/04-02/06-2465-AnxC), annex D (ICC-01/04-02/06-2465-AnxD) and annex E (ICC-01/04-02/06-2465-AnxE).

⁵ Defence request for admission of additional evidence on appeal, date 27 August 2020 and registered on 28 August 2020, ICC-04/04-02/06-2570-Conf, with annex A (ICC-04/04-02/06-2570-Conf-AnxA), annex B (ICC-04/04-02/06-2570-Conf-AnxB) and annex C (ICC-04/04-02/06-2570-Conf-AnxC).

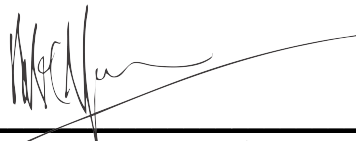
⁶ Application for Additional Evidence, paras 1, 3, 66; annex A. On 2 September 2020, Mr Ntaganda filed an addendum to the Application for Additional Evidence containing a higher-resolution copy of [REDACTED] electoral card. See Addendum to “Defence request for admission of additional evidence on appeal”, 27 August 2020, ICC-01/04-02/06-2570-Conf, ICC-01/04-02/06-2572-Conf.

⁷ Regulation 62(2)(a) of the Regulations of the Court reads: The Appeals Chamber may: (a) Decide to first rule on the admissibility of the additional evidence, in which case it shall direct the participant affected by the application filed under sub-regulation 1 to address the issue of admissibility of the evidence in his or her response, and to adduce any evidence in response only after a decision on the admissibility of that evidence has been issued by the Appeals Chamber.

5. Following this procedure, the Prosecutor is directed to file a response addressing the issue of admissibility of the additional evidence by 16h00 on Wednesday, 16 September 2020. Each of the legal representatives of victims may file, by 16h00 on Thursday, 17 September 2020, observations presenting their views and concerns with respect to the Application for Additional Evidence insofar as their personal interests are affected. Mr Ntaganda and the Prosecutor may each reply to the victims' observations by 16h00 on Monday, 21 September 2010.

6. Finally, the Appeals Chamber notes that the Application for Additional Evidence was filed as confidential because it 'refer[s] [...] to confidential material and evidence on the record'.⁸ The Appeals Chamber notes that no public version of the application has been filed to date. Therefore, it directs Mr Ntaganda to file a public redacted version of the Application for Additional Evidence by 16h00 on Friday, 11 September 2020.

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



Judge Howard Morrison
Presiding

Dated this 22nd day of October 2020

At The Hague, The Netherlands

⁸ Application for Additional Evidence, fn. 1.