

1 International Criminal Court
2 Pre-Trial Chamber II - Courtroom 1
3 Situation: In the Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Single Judge Ekaterina Trendafilova
6 Status Conference
7 Monday, 15 April 2013
8 (The hearing starts in open session at 2.29 p.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 JUDGE TRENDAFILOVA: Please be seated. Good afternoon to everyone.
12 I will start of course with welcoming everyone who is here today: The team of the
13 Prosecutor; Mr Ntaganda, you're present here as well, although you're not obliged to,
14 but as far as this is your right, of course, you're more than welcome to be in the
15 courtroom; the Defence team of Mr Ntaganda; the representatives of the Registry; and
16 I would like to greet as always the interpreters, the stenographers, the court officers,
17 the security officers, the court reporters and the legal support staff of Pre-Trial
18 Chamber II.
19 Now I will turn to the court officer. Court officer, will you please call the case.
20 THE COURT OFFICER: Thank you, your Honour. Situation in the Democratic
21 Republic of Congo, in the case of The Prosecutor versus Bosco Ntaganda,
22 ICC-01/04-02/06.
23 JUDGE TRENDAFILOVA: Thank you very much, court officer.
24 Of course, we have to start now with the parties and the representatives of the
25 Registrar presenting themselves. I will turn now to the team of the Prosecutor.

1 Who is coming from the Office of the Prosecutor to the status conference today?

2 MS SAMSON: Good afternoon, your Honour. The Prosecution today is
3 represented by Ms Olivia Struyven, trial lawyer; Ms Joanna Frivet, assistant trial
4 lawyer; Ms Selamawit Yirgou, the case manager; and myself, Nicole Samson, trial
5 lawyer.

6 JUDGE TRENDAFILOVA: Thank you very much, Ms Samson. I turn now to the
7 Defence team of Mr Ntaganda. I see new faces, so will you represent yourself,
8 Mr Counsel?

9 MR DESALLIERS: (Interpretation) Yes, good afternoon, Madam President. I
10 would like to introduce to you Maître Caroline Buteau, who is here to my side. I'm
11 Marc Desalliers. I am the representative for Mr -- legal representative of the
12 Defence for Mr Bosco Ntaganda.

13 JUDGE TRENDAFILOVA: Mr Desalliers, you are more than welcome, together with
14 your assistant. I was informed that you would like to appear with your assistant,
15 and as far as she satisfies the requirements of Regulation 124 of the Regulations of the
16 Registry, she's welcome to assist you.

17 I would like before turning to the representatives of the Registry to ask you whether
18 you are the permanent Defence counsel of Mr Ntaganda or a duty counsel?

19 MR DESALLIERS: (Interpretation) Now, for the time being, Madam President,
20 I am the duty counsel for Mr Bosco Ntaganda. I shall be informing the Chamber, or I
21 should inform the Chamber that the composition for the defence of Mr Bosco
22 Ntaganda has not yet been set in stone. I hope that this will be the case rapidly over
23 the next few days, but for the time being I am before you as a permanent -- or duty
24 counsel for Mr Bosco Ntaganda.

25 JUDGE TRENDAFILOVA: Thank you very much, Counsel Desalliers. Of course,

1 you can rely on the support of the Registry, the full support, in order to finally
2 establish the Defence team of Mr Ntaganda because this is in his interest and in the
3 interest of the proper conduct of the proceedings.

4 Now I would ask who is representing the Registry today?

5 MR MIJUSKOVIC: Good afternoon, your Honour.

6 JUDGE TRENDABILOVA: Good afternoon.

7 MR MIJUSKOVIC: The Registry this afternoon is represented by Ms Alexandra
8 Tomic, the Head of the Court Interpretation and Translation Services; Ms Vera Chi
9 Wang, the associate legal officer in the Office of the Director of the Court Services;
10 Mr Alvaro Flores Diaz, the Head of the Information Services Unit; and myself, Uros
11 Mijuskovic, legal officer the Court Management Section.

12 JUDGE TRENDABILOVA: Thank you very much. Now finally, for the record, you
13 know that I am the Single Judge designated by Pre-Trial Chamber II in this case and
14 I'm also responsible for the disclosure procedure, and with me is the senior legal
15 adviser of the Pre-Trial Division, Mr Gilbert Bitti, and also the legal officers of the
16 Chamber, Mohamed El Zeidy, Federica Gioia and Eleni Chaitidou.

17 Let me start with clarifying again, although I think that I made it quite clear in the
18 oral decision that was issued on 26 March at the end of the initial appearance, but still
19 once again in order to streamline today's status conference, and to make it useful, I
20 would like to clarify the purpose once again of the status conference.

21 The purpose is to receive information from the parties and mainly from the
22 Prosecutor, as the triggering force in these proceedings, on the questions formulated
23 in the oral decision that I was referring to and a further aim of today's hearing is to
24 establish subsequently a calendar of the disclosure of evidence in such a way so as to
25 ensure a transparent, expeditious disclosure process which is going to be helpful to

1 the parties and to the Chamber as well.

2 This shapes the subject matter of today's status conference. Thus, I request the
3 parties to please confine their participation to the issues as formulated in the oral
4 decision of 26 March and to make contribution as useful as possible to our common
5 endeavours. Of course, we should not be prevented from discussing some other
6 matters that are related to the disclosure regime and which need to be resolved by the
7 Chamber.

8 Before we proceed further, please, I would like you to be aware of the relatively
9 limited time allocated to us. Therefore, let us try to accelerate our work as much as
10 possible, hoping that the time constraints will not prejudice the usefulness of our
11 discussion.

12 In light of this, I ask the parties that they address the Court and express themselves in
13 a concise and coherent manner and that they refrain from delving into unrelated
14 matters. Please also be to the point, utmost expeditious and cooperative, I very
15 much hope.

16 And finally, left everyone not forget, including myself as well, as I tend to speak quite
17 quickly, to speak slowly and to make a pause before responding to any question so
18 that the interpreters could do their job.

19 Now I will pass to the questions that we were supposed to discuss. Without further
20 ado, we shall start with the first set of questions by giving the floor first to the
21 Prosecutor, thereafter to the Defence, and where necessary the Registry will intervene.

22 At first I request the Prosecutor to indicate the estimate of the overall amount of
23 evidence the Prosecutor intends to rely for the purposes of the confirmation hearing
24 pursuant to Article 61(3)(b) of the Rome Statute. And please, if possible, to the
25 extent possible, specify also the approximate number of pages.

1 After this overall estimate, I request you to indicate: First, whether you intend to call
2 live witnesses at the confirmation hearing. If yes, second, how many prior
3 statements of those witnesses, and of other witnesses that will not appear live, do you
4 intend to rely on for the purposes of the confirmation hearing which must be
5 provided to the Defence sufficiently in advance in order -- in accordance with the
6 requirements of Rule 76 of the Rules of Procedure and Evidence? What is the
7 approximate number of pages of such witness written statements?

8 Another relevant to this evidence question is whether you intend to disclose, for the
9 purposes of the confirmation hearing, full witness statements or just summaries
10 thereof as provided in Articles 61(5) and 68(5) of the Rome Statute.

11 In this regard, taking into consideration Rule 76(3) of the Rules, I find it necessary to
12 discuss the issue of the translation of those witness statements in a language that
13 Mr Ntaganda fully understands and speaks. In this case, this is Kinyarwanda.

14 Hence, my question to the Prosecutor is: Are you in a position to make the
15 appropriate translations? And second, how much time would that take, considering
16 that the Registry may co-operate with you in this regard, as stated in the disclosure
17 decision that was issued last Friday, 12 of April?

18 Now the floor is over to you, Ms Samson.

19 MS SAMSON: Thank you very much, your Honour.

20 The Prosecution is ever mindful of the need to move efficiently and as quickly as
21 possible into these disclosure issues that are, as you mentioned, of significant
22 importance in ensuring that the parties and the Chamber get timely disclosure.

23 In response to your exact questions, the Prosecution is of course still in the process of
24 reviewing the documents that it will rely upon at confirmation hearing. We are also
25 in the process of collecting additional information in the field which we need to factor

1 into, an ultimate assessment and an ongoing review of the documents that will
2 ultimately form the number that we will rely upon at the confirmation hearing.
3 That said, we can provide the Chamber with an estimate today that, in principle, we
4 intend to be as focused as possible and relying on the key and critical components
5 and documents for the confirmation hearing. We are of the view currently that we
6 will rely on approximately 500 documents which, according to our calculations,
7 number approximately 9,000 pages. This would include, as your Honour requested,
8 an assessment of witnesses, witness statements, under Rule 76. We are estimating
9 currently to have approximately 15 to 25 witnesses that we will rely upon for
10 confirmation hearing, an assessment -- an approximation rather, of 6,000 pages for
11 those witnesses.

12 JUDGE TRENDABILOVA: I'm sorry for interrupting you, I wouldn't like to be
13 impolite, but is your intention to call live witnesses? 15 to 25? Let us not forget
14 what is the subject matter of the confirmation of charges hearing. This is not a
15 full-fledged trial.

16 MS SAMSON: No, that's right, your Honour, and perhaps I wasn't clear in getting to
17 the number of live witnesses that we may call. The 15 to 25 estimate are the number
18 of witnesses whose statements we intend to rely upon for the purposes of
19 confirmation hearing.

20 The number of witnesses that we call, if any, would be limited to two or possibly
21 three key witnesses who could come at confirmation. We are estimating that the
22 statements of those two to three witnesses could number approximately 1,000 pages.
23 It may be appropriate at this point, your Honour, since we're dealing with prior
24 statements, to address the issue of translation, and we were pleased to note that your
25 Honour would be interested in information on translation because we have already

1 begun conducting an assessment of what it would mean in practical terms to translate
2 this number of witness statements for the confirmation hearing, which is set for only
3 several months' time.

4 Our in-house assessment is that it could take 190 person days, which is the way in
5 which our translation unit assesses translation needs. That would be one person
6 working solely on the translation of these prior statements. It could take 190 days.
7 That is of course a long time.

8 Naturally, we would be engaging the services of more than just one person, which
9 would reduce the number of days required, but it's simply to give a sense that it is a
10 very resource intensive and time consuming exercise. We are hoping - I have
11 already canvassed with duty counsel - that should they maintain their counsel status
12 in the case, that we will have to have a discussion in terms of perhaps reaching an
13 understanding of disclosure of materials that we currently possess in French. The
14 statements exist in-house in French. The translation would hold up the disclosure
15 process tremendously at this point.

16 Engaging with the Registry is certainly something that we noted in your Honour's
17 decision and that we are intending to do. The total translation package can include
18 not only individual witness statements, but also relatively voluminous transcriptions
19 of Article 55(2) interviews.

20 In addition it could also include potentially the translation of in-court transcripts, if
21 any of the witnesses we intend to rely upon have already appeared in another
22 proceeding. So the pool of material to translate is quite large.

23 JUDGE TRENDABILOVA: Thank you very much. I would like to ask you several
24 questions. First of all, Ms Samson, what about summaries of witness statements?
25 Do you intend to present full witness statements, or summaries thereof as the Rome

1 Statute gives you such an opportunity as well?

2 MS SAMSON: At this time, your Honour, we're focusing on full witness statement
3 disclosure. We reserve the right to apply to the Chamber under Article 68(5) to
4 disclose a summary, if and when we reach the point that a protective measure of that
5 nature is required, but our goal is to disclose statements.

6 JUDGE TRENDAFILOVA: Another question I would ask you still to remain at my
7 disposal, what about the possibility for the so-called oral translation? Of course
8 maybe I have to seek the views of the Registry, whether it would be possible for an
9 interpreter to record those statements on a CD in Kinyarwanda and to provide those
10 CDs to Mr Ntaganda? I'm not specialist in these matters, that's why I'm seeking the
11 views of the Registry on this point.

12 MS TOMIC: Thank you, Madam President. In terms of using oral translations, I
13 wouldn't recommend it in this case because it would be much harder for anybody to
14 review this. We only use oral translations in cases if a language is not written, as we
15 have already had that case, but in the case of Kinyarwanda, I don't think that this
16 would speed up the process.

17 JUDGE TRENDAFILOVA: Thank you very much. We have to follow the advice of
18 the professionals so we are not going to use, of course subject to some further
19 developments. No one knows how things are going to develop, but I very much rely
20 that the Registry provides this support to the Office of the Prosecutor, and I'm going
21 to have a meeting with the newly elected Registrar, even I intend to have such a
22 meeting on this and similar issues in the afternoon on Thursday, after his
23 inauguration ceremony. Thank you very much.

24 Now -- of course, the Defence will always be consulted on the preferences because we
25 have to ensure proceedings that have the full respect for the rights of the defendant.

1 If you would like to say something, Counsel?

2 MR DESALLIERS: (Interpretation) Of course, Madam President, I do feel that
3 what I have to say today is somewhat limited because I cannot commit myself to
4 receiving any disclosures because our mandate is limited to the hearing today. But
5 I can make a number of suggestions that might help matters for the future.
6 I believe that as soon as the Defence team has been officially composed, I believe that
7 it would be good for us to have disclosed as rapidly as possible all that the
8 Prosecution has in its hands at the time and that it is able to disclose. We would be
9 able to discuss things directly with the Office of the Prosecutor in order to obtain this
10 information from them. I do not believe that it is necessary for us to wait for
11 translations to be made, Kinyarwanda translations to be made, before the first
12 disclosure be completed to the Defence. Once this disclosure has been completed, I
13 believe that it will be possible for the Defence to assess what is urgent, what requires
14 to be translated first and rapidly, and I believe that the Office of the Prosecutor will be
15 in a position to help the Defence.
16 The Registry will be able to identify also what is more urgent to be translated but, for
17 the time being, I do not believe, Madam President, that I can say any more on the
18 matter.

19 JUDGE TRENDABILOVA: Thank you, Counsel. I understand very well that you
20 are in quite a difficult position, not knowing exactly what your mandate is, whether
21 you will be a permanent counsel or just for today's hearing, and that's why I expect
22 the Registry to take the appropriate measures to assist the proceedings in establishing
23 a full team for the Defence of Mr Ntaganda because this has a direct impact not only
24 on his rights but on the proper conduct of the proceedings, hoping that this is not
25 going to take longer than two, utmost three weeks, the end of April.

1 Then I would like to ask Counsel Desalliers whether you are in a position at all to
2 discuss issues about the -- similar issues that the Prosecutor already conveyed some
3 very important information to the Chamber, with regard to your intentions regarding
4 live witnesses, regarding the approximate amount of pages and so on. If you're not
5 in the position to do this because of your limited mandate, we shall just go over this
6 issue and I will turn again to the Prosecutor.

7 MR DESALLIERS: (Interpretation) I thank you, Madam President. I do not have
8 any observations to make on this subject for the time being.

9 JUDGE TRENDAFILOVA: Okay. Thank you very much, Counsel. Now I have to
10 turn again to the Office of the Prosecutor, and I will address Rule 77 material that are
11 in possession or control of the Prosecutor, that are the subject to inspection pursuant
12 to said Rule 77 of the Rules of Procedure and Evidence, and I will request the
13 Prosecutor to indicate the amount of this material, that is to say any documents,
14 books, photographs, or other tangible items that first, are material to the preparation
15 of the Defence; second, are intended for use by the Prosecutor as evidence for the
16 purposes of the confirmation hearing; or third, were obtained from or belonged to the
17 suspect, to Mr Ntaganda. If you could give us an approximate number of the pieces
18 of evidence that are subject to Rule 77 inspection? If you need some more time, you
19 shouldn't be concerned about me waiting and the rest of the participants.

20 MS SAMSON: Thank you very much, your Honour, I will ask for the indulgence?

21 JUDGE TRENDAFILOVA: Of course.

22 MS SAMSON: Thank you very much for the indulgence, your Honour. We have
23 identified a number of documents that will be disclosed subject to Rule 77. The
24 collection is certainly a large one, and in the case of the DRC, we're looking at
25 approximately 5,000 documents at this point, totalling some 40,000 pages. But this is

1 an estimate. It's based in large measure on the documents that we had previously
2 assessed in the context of the case against Mr Lubanga, which have overlapping
3 relevance to the case at hand. We continue to review to ensure that that number is
4 indeed equally applicable to Mr Ntaganda, but there is a whole range of documents
5 that could fit into that category of disclosure.

6 JUDGE TRENDAFILOVA: I thank you. I would ask the representative of the
7 Prosecutor still to wait for my next question because we have agreed that the
8 Defence at this moment in time, regardless of how much they're willing to contribute
9 to my duty to establish a proper disclosure calendar, they cannot do this at this point
10 in time. That's why most of this hearing, it will be an interaction between me and
11 you.

12 I would like to raise the issue of protective measures and my question is: Do you
13 intend to request that certain documents and witness statements be disclosed to the
14 Defence in redacted form, as provided for in Rule 81 of the Rules of Procedure and
15 Evidence? If yes, could you provide us again with the estimate of the amount,
16 possibly number of pages of such documents?

17 In this regard, I would like to remind the Prosecutor and her representatives that she's
18 expected to provide a comprehensive and detailed security assessment for each
19 witness at the time of the redaction requests, in order for the Chamber to take an
20 informed decision on the redactions proposed.

21 The floor is over to you.

22 MS SAMSON: Thank you, your Honour. We are undertaking an analysis of the
23 current security situation to witnesses that we propose to call for confirmation
24 hearing; that is ongoing. We anticipate that we will be making requests to the
25 Chamber for protective measures, particularly in the form of limited redactions. The

1 extent to which we will be seeking to -- making requests to the Chamber for
2 protective measures in advance of disclosure is yet to be known. What we do know,
3 looking at the pool of materials disclosed in the Lubanga case of relevance to this case,
4 is that there are approximately 700 documents that were granted limited redactions
5 by either the Pre-Trial or the Trial Chambers, and we note as well that Regulation 42
6 is applicable to redactions that were authorised by those Chambers to protect victims
7 and witnesses. The protective measures remain in play and full force and effect in
8 other proceedings. The obligation that we the Prosecution have is to inform the
9 Defence team when we are disclosing a document for which protective measures
10 were previously granted and to reassess on an ongoing basis whether or not the
11 protections remain necessary.

12 Should we require a variation of the protective measure, we are required, as your
13 Honour no doubt knows, to bring the matter to this Bench and have the Chamber
14 assess, with full information before it, whether or not the protective measure truly
15 needs to be in place or not. So we are looking quite closely at the issue of redactions
16 and protective measures.

17 For the moment the 700 documents that I referred to earlier totals approximately 6,800
18 pages. Not all of those documents contain protective measure redactions. In some
19 instances they are also redactions to protect ongoing investigations under Rule 81(2)
20 or to protect information that came from 54(3)(e) source providers.

21 JUDGE TRENDABILOVA: Thank you, Ms Samson. You touched upon the broader
22 issues of protective measures apart from redactions, and of course mindful that we
23 are in a public session, if you would like to discuss some further issues related to
24 protective measures beyond redactions, at the end of this session I'm going to give
25 half-an-hour break and to switch into a closed ex parte session, Prosecutor and

1 Registry only, but it will depend on your assessment whether you would need to
2 have this discussion during this status conference with the representative of the
3 Chamber, the Single Judge.

4 MS SAMSON: Thank you, your Honour, for the opportunity.

5 Today we are not requiring such a closed session hearing. However, we would like
6 to maintain the possibility of requesting that such a session be set up in the weeks to
7 come relatively quickly, once we have finalised or completed more of our review of
8 the protective measures that are required. At the moment it's dependent on a
9 number of factors that I don't have full information on today.

10 JUDGE TRENDAFILOVA: Thank you, Ms Samson.

11 Of course it is my duty, my responsibility, and as soon as you're ready, you will
12 approach me and the status conference will be convened as soon as possible, given
13 the one courtroom that we have. Of course there is a smaller one, but it will be
14 properly handled.

15 I would like in this regard and at this point to order the Office of the Prosecutor to, as
16 soon as possible, if possible immediately, to make available the Article 58 applications
17 of the Office of the Prosecutor for the issuance of the two arrest warrants against
18 Mr Ntaganda because this information, this knowledge, these applications is vital for
19 establishing a proper strategy for the Defence and to the benefit of Mr Ntaganda,
20 preparing his case, and I would like to make the point that if redactions to these
21 applications pursuant to Article 58 are necessary, those proposed redactions shall be
22 submitted to the Chamber, to the Single Judge, at latest by Thursday, 25 April 2013.
23 It is my view that this is quite enough time for you to prepare, if need at all to prepare
24 some redactions.

25 You also touched upon the issue of Article 54(3)(e). I shall come to this provision of

1 the Statute and also if you have received some other information pursuant to Article
2 72 as well, national security information. And my question is, do you -- have you
3 received some information on a confidential basis pursuant to the two provisions that
4 I was referring to and yourself as well, and what is the status now of seeking the
5 consent of the information provider, if you have received such material?

6 MS SAMSON: Your Honour, we have not newly collected any material under
7 Article 54(3)(e) in the case of Mr Ntaganda. However, it is the case that the broader
8 collection of DRC materials does contain information previously collected under that
9 article.

10 We have commenced the review of the material. We've identified 365 documents
11 that were disclosed either as incriminating or exonerating or under Rule 77
12 previously, for which we anticipate having to disclose the information afresh in the
13 case against Mr Ntaganda. Of the 365 documents, there are 300 that contained either
14 Article 67(2) or Rule 77 information, totalling approximately 1,800 pages.

15 On 27 March of this year we went back to the information providers to obtain their
16 consent for disclosure in the same form in which it had previously been agreed upon.
17 We sent the request afresh on 11 April, so we are waiting for the relevant responses,
18 but anticipate that the disclosure of that material will not be a problem.

19 We are also as a priority conducting our further reviews of the DRC collection
20 through the materials that were 54(3)(e) collected, because we know from experience
21 that it can take some time in order to deal with all of the lifting requests that take
22 place, and we must also advise the Chamber that in some cases it is not simply a
23 matter of obtaining the same lifting request and then proceeding directly to disclosure
24 because some of the information providers had requested that either protective
25 measures be in place prior to disclosure or redactions. In which case, depending on

1 the assessment of Regulation 42, we may have to come back speedily to this Chamber
2 to ensure that the same measures will be applicable.

3 JUDGE TRENDAFILOVA: Thank you. Of course I very much appreciate that you
4 quite expeditiously, after the initial appearance, or the next day, and thereafter on
5 11 April as you stated, you tried to approach the information provider, the
6 confidential information, of course only we are referring to that of exculpatory nature,
7 because if some protective measures are needed and redactions, this is going to take
8 time regardless of how hard the Chamber and the legal support staff of the Chamber
9 is going to try to handle the matter, but still this is very important, with regard to the
10 protection that witnesses, victims and other personalities have to be granted by the
11 Chamber. So as soon as you receive any response by the information provider,
12 please do approach the Chamber.

13 And at this point, I will request the representative of the Office of the Prosecutor to
14 submit regular reports on this very matter, in order for us to be attentive to some
15 possible problems that could impact on the proper conduct of the proceedings, the
16 rights of the Defence and the reasonable time standards, as established by
17 international human rights standards.

18 I would also ask you about Article 67(2) material that show the innocence of
19 Mr Ntaganda or mitigate his guilt or which may affect the credibility of the
20 Prosecution's evidence. You know that pursuant to Article 67(2), the earliest
21 opportunity, as soon as practicable, means that as soon as this material in your
22 possession, it is -- it would show a professional approach, that we are not doubtful
23 about, to disclose this exculpatory material in order to give the opportunity to the
24 Defence to start engaging into the preparation of its own case.

25 And you have to say something on Article 67(2)?

1 MS SAMSON: Your Honour, just to reiterate from our perspective the priority in
2 addition to identifying exonerating - or potentially exonerating - materials in the
3 Article 54(3)(e) collection is to comb through and review the entire collection, and to
4 that end we have created internal guidelines with key word search terms which we
5 believe would help identify items of evidence of potential relevance to Mr Ntaganda
6 and those will be reviewed as a priority.

7 We, as an office, are mindful of the need to provide expeditious disclosure of that
8 type of documentation in order for effective Defence preparation, so we would like to
9 confirm to the Bench that it remains a priority as well for the office that we conduct
10 that review quickly and disclose also quickly.

11 JUDGE TRENDABILOVA: Thank you very much. I would also ask the parties
12 together with the Registry following your consultations regarding the translation of
13 the evidence into the language that Mr Ntaganda fully speaks and understands,
14 Kinyarwanda, to keep also the Chamber posted in order for us, and in order for me as
15 representing the Chamber, to make sure that disclosure takes place as dictated by
16 Rule 121 of the Rules of Procedure and Evidence that disclosure takes place under
17 satisfactory conditions.

18 And as far as this is the issue that could create some problems regarding the timing of
19 the disclosure and the date was already set up for the commencement of the
20 Confirmation of Charges Hearing during the initial appearance, namely 23 September
21 this year, this would be the request on behalf of the Bench that you keep us informed.
22 I would like to turn to the Registry and to ask whether the Registry has something to
23 add to all the issues that were raised, mainly to the --

24 MR MIJUSKOVIC: Thank you, your Honour. We would just like to add a few
25 words on the issue of translation; namely, currently, it's important that you know and

1 that you're aware, we have only one Kinyarwanda speaker on our staff. It's a senior
2 staff member who is currently helping and assisting also the communication between
3 the duty counsel, Mr Desalliers, and Mr Bosco Ntaganda, the suspect.

4 If we were to further assist with the translation of documents, we would have to
5 proceed most probably to the recruitment of additional translators or interpreters,
6 and when you are making a decision on the judicial calendar, I think this should be
7 taken into account.

8 Also, as soon as possible, it would be great if -- it would be good if as soon as possible
9 any request in relation to the assistance for translation could be given to us, provided
10 to the Registry, so that we can plan accordingly.

11 JUDGE TRENDABILOVA: Thank you very much. As I said in the beginning, I
12 have been trying to receive more detailed information about the availability of the
13 translation unit, especially with regard to people, interpreters who are proficient in
14 this language, Kinyarwanda, that Mr Ntaganda fully speaks and understands.

15 I know that you have one such speaker, interpreter, and this is going to be the
16 purpose of my meeting with the Registrar, if possible the same afternoon or latest the
17 next day. One of the reasons for my meeting, because I realise that there are
18 difficulties in this regard.

19 I was reminded by our diligent legal officers that it would be extremely helpful to the
20 Chamber to receive also monthly reports on Article 54(3)(e) material so that we know
21 where we stand and we are really attentive if there would be some problems.

22 Do the parties have something else to add to the issue that -- all these different
23 matters that we have been discussing, related finally to the issue of taking a decision
24 on the disclosure calendar that I'm going to issue in due course?

25 Yes, please.

1 MS SAMSON: Just one observation, your Honour, in relation to the disclosure
2 timetable.

3 The Prosecution in addition to potentially dealing with the translation of many
4 statements, also will be producing regular in-depth analyses charts accompanying
5 disclosure. And for our internal purposes, our disclosure unit advises that it is best
6 for us to organise ourselves around a monthly disclosure, and I rise to make that
7 observation.

8 I understand that your Honour will be issuing a disclosure decision timetable shortly,
9 and in that respect the Prosecution favours one larger disclosure set out on a monthly
10 basis, rather than a series of shorter disclosures, but again that is simply for the help
11 of the Chamber.

12 JUDGE TRENDABILOVA: I shall consider this proposal, and I would like to give
13 the floor to the Defence.

14 Do you have something too, Mr Desalliers?

15 MR DESALLIERS: (Interpretation) Yes, Madam President. Regarding the issue of
16 disclosure on a monthly basis, initially we believed that this might give rise to a
17 number of difficulties. You see, to determine ahead of time that disclosure will take
18 place only once a month could be a principle whereby, if a document were to be
19 disclosable on the 2nd of the month, by virtue of that principle it may be disclosed
20 only 20 some days after that date, so I believe that there's an advantage in having
21 several meetings, even on a weekly basis, with the OTP so that disclosures can be
22 made to the Defence much more quickly, that is at least as far as disclosable
23 information is concerned.

24 That is why I believe that it might not be appropriate to be too rigid in determining
25 specific disclosure schedules but that we should have a lot more flexibility and

1 schedule more frequent disclosure meetings within the month, maybe six disclosure
2 meetings between now and the confirmation of charges.

3 If we were to go by the one-month provision, that's difficult for me, your Honour. I
4 think that more frequent meetings would be more in order. Now, that's as far as the
5 schedule for disclosures is concerned.

6 Let me now turn to the issue of monthly reports as requested by the Chamber from
7 the OTP regarding what has been achieved and the status of the situation regarding
8 lifting confidentiality. What I would suggest is that Defence should also be informed
9 of the measures and steps that have been taken by the OTP, not necessarily by
10 transmitting confidential information to the Defence but rather simply informing
11 Defence of the steps that have been taken towards lifting these confidential issues.
12 Thank you.

13 JUDGE TRENDAFILOVA: Thank you very much, Counsel Desalliers. Do you
14 want to reply to the comment made by the counsel?

15 MS SAMSON: Only in respect, your Honour, to the second point, which deals with
16 disclosure of our regular reports to the Chamber. Once the Chamber is aware that
17 there is an issue, or the Prosecution, we can thereafter advise the Defence of the issues.
18 In principle, it appears that the Prosecution can provide the reports uniquely to the
19 Chamber for its determination of our processes rather than to the parties.

20 JUDGE TRENDAFILOVA: And Ms Samson, with regard to the meetings that the
21 counsel was proposing?

22 MS SAMSON: Regular weekly meetings is not impossible for the Prosecution, or at
23 least on a twice-a-month basis. Internally, it's just sometimes it's easier for us to
24 organise ourselves on one larger disclosure meeting, technically speaking, and we
25 also are mindful that we need to prepare the in-depth charts, which also take some

1 time.

2 So our suggestion remains that they be not weekly; at the most, bi-monthly, every two
3 weeks.

4 JUDGE TRENDAFILOVA: Thank you. I shall consider the approach the two
5 parties and will reflect in the disclosure decision.

6 Would the parties like to raise some additional issues regarding the disclosure
7 calendar, the regime?

8 Then I can assume that we came to the end of the status conference, probably because
9 the Defence couldn't be able to make some more precise comments on the disclosure
10 calendar, which is quite logical, given the situation in the Defence team. I would like
11 to say that I'm very much grateful to the parties for being professional, and I very
12 much hope that the parties will act in good faith so that we proceed with a
13 transparent, expeditious, professional disclosure, and that we keep the date for the
14 commencement of the confirmation hearing as set up during the initial appearance.
15 I would like to thank, of course, the interpreters; as always, very much grateful, to the
16 stenographers, the reporters, the courtroom staff, the security officers, without whom
17 we could not do our job.

18 I would also like to thank those who were in the public gallery attending this status
19 conference, organising the disclosure to follow, and also I would like to thank of the
20 legal support staff of Pre-Trial Chamber II.

21 Having said that, I close this hearing.

22 THE COURT USHER: All rise.

23 (The hearing ends in open session at 3.20 p.m.)