

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **2 April 2009**

TRIAL CHAMBER I

Before: Judge Adrian Fulford, President
Judge Elizabeth Odio Benito, Judge
Judge René Blattmann, Judge

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
v. THOMAS LUBANGA DYILO**

Confidential

**Prosecution's Response to the "Information to the Chamber in relation
to interpretation and transcription matters related to trial proceedings"
filed by the Registry on 18 March 2009**

Source: Office of the Prosecutor

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

Court to:

The Office of the Prosecutor

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**Unrepresented Applicants for
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Detention Section

**Victims Participation and Reparations
Section**

Other

I. Background

1. On 18 March 2009, the Registry filed its "Information to the Chamber in relation to interpretation and transcription matters related to trial proceedings",¹ in which it informed the Trial Chamber of ongoing discussions between the Defence, the Prosecution and the Registry regarding interpretation during trial and preparation of trial transcripts. The Registry included several proposals aimed at enhancing the quality of the interpretation and transcripts.
2. On 27 March 2009, the Prosecution advised the Trial Chamber that it would comment on the Registry's filing.²

II. Prosecution's Submissions

3. The Registry's filing accurately sets out the concerns raised by the parties related to discrepancies between the English and French interpretation, the length of time it takes to prepare edited versions of the French transcripts and the problems with the French 'realtime' transcript. The Prosecution submits that it is crucial that adequate solutions are found to address these concerns. The Prosecution takes this opportunity to make several remarks on the Registry's filing.
4. First, as set out in paragraphs 14-16 of the Registry's filing, the Prosecution agrees that in the case of a discrepancy between the English and French transcripts and/or interpretation, the parties are not in a position to agree amongst themselves on the actual words spoken by the witness. It is burdensome on the parties and participants to review the two languages of the transcripts to identify discrepancies, and the

¹ ICC-01/04-01/06-1788.

² ICC-01/04-01/06-T-157-CONF-ENG, page 98, lines 19-20.

procedure to request access to and then conduct a review of the recordings of testimony is equally onerous.³ It is within the domain of the Registry, as the organ in charge of the original forms of evidence and audiovisual recordings as well as the interpretation and transcription of testimony, to consult the recording of the testimony in order to ensure full accuracy of transcription and interpretation.

5. The Prosecution submits that if the parties or participants become aware inconsistencies in the interpretation or transcription of trial testimony, there should be a convenient mechanism to alert the interpretation section to these inaccuracies so that they can be examined and corrected if required.
6. Second, the sole method of ensuring the accuracy of the official record is to transcribe the original testimony of a witness and then prepare a translation into English and French. The practical difficulty is that it is resource and time intensive, and does not address the need to have a complete working record of what a witness states at the time of testimony. If it could be undertaken, however, this approach would guarantee that on an ongoing basis and for use during final submissions the parties, participants and the Chamber would have the precise evidence of each witness.
7. At a minimum, given that inconsistencies currently exist between the English and French versions of the interpretation and transcription of testimony, the Prosecution submits that the Registry should undertake a comparative review of the French and English transcripts on a daily basis. This exercise will allow the Registry to identify areas where the English

³ See Regulations 16 and 17(2) of the Regulations of the Registry. Requests by parties to access the audiovisual recordings of proceedings must be made formally and in writing. Consultation of the audiovisual recordings shall be recorded by the Registry and must be done in a designated area under the supervision of a representative of the Registry.

and French interpretation or transcript do not accord, and to thereafter undertake a review of those sections of the recording of the testimony to ensure that the corrected versions of the transcripts are accurate. The Prosecution understands that this is not being undertaken or contemplated at present.

III. Confidential Filing

8. The Prosecution has made this submission on a Confidential basis, adhering to the classification level of the Registry's filing. The Prosecution has no objection to the filing being made Public, if deemed appropriate by the Trial Chamber.



Luis Moreno-Ocampo
Prosecutor

Dated this 2nd day of April 2009
At The Hague, The Netherlands