

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 15 July 2009

TRIAL CHAMBER I

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

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

Confidential

Registry report on interpretation matters

Source: Registrar

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

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Ms Charlotte Dahuron, Chief Court
Management Section
Ms Alexandra Tomic, Chief Court
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THE REGISTRAR of the International Criminal Court (the "Court"),

NOTING the information provided to Trial Chamber I (the "Chamber") by the Office of the Prosecutor on 3 March 2009 related to interpretation and transcription matters;¹

NOTING the *"Information to the Chamber in relation to the interpretation and transcription matters related to trial proceedings"* (the "Registrar's Submission") submitted by the Registrar on 18 March 2009;²

NOTING the *"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"* (the "Prosecution's Response") submitted by the Office of the Prosecutor on 2 April 2009;³

NOTING the *"Decision on discrepancies between the English and the French Transcripts and related issues"* (the "Decision") issued by the Chamber on 18 June 2009;⁴

NOTING the *"Further information to the Chamber on the matter of the confidentiality level of the Registry's 'Information to the Chamber in relation to the interpretation and transcription matters related to trial proceedings' submitted on 18 March 2009"* submitted by the Registry on 19 June 2009;⁵

¹ ICC-01/04-01/06-T-139-CONF-ENG ET 03-03-2009 1-100 NB T. p.97 line 17 – p.99 line 10.

² ICC-01/04-01/06-1788-Conf.

³ ICC-01/04-01/06-1808-Conf.

⁴ ICC-01/04-01/06-1974-Conf.

⁵ ICC-01/04-01/06-1976-Conf.

NOTING article 67 of the Rome Statute, Rule 42 of the Rules of Procedure and Evidence, Regulations 23*bis*, 24*bis* and 27, 40(2) of the Regulations of the Court, Regulations 50, 57, 61, 62, 64, 65, 67 of the Regulations of the Registry;

CONSIDERING that in the Decision, the Chamber orders the Registry to, *inter alia*, provide a written report to the Chamber on the outcome of the two-week test relating to the number of interpreters and the "configuration of the booths" and shall provide an update once the four permanent staff have been recruited and have been in post for a sufficient period for their contribution to be assessed;⁶

RESPECTFULLY REPORTS to the Chamber as follows:

Strength of booths

1. Following concerns over interpretation into English during the Prosecution case in the Lubanga trial, the strength of English booth was strengthened from three to four interpreters in the course of week 12 (16 to 20 March 2009). It was estimated at the time that a two week test would be sufficient to assess whether there was a marked improvement in the quality of English interpretation.

Duration of trial

2. In view of the April recess which lasted from 8 April to 5 May, it was subsequently decided to extend the trial with four interpreters in the English booth in order to assess with more certainty whether there were improvements in interpretation. This in effect means that the alternative booth configuration lasted until week 21 (18 to 22 May 2009). It was originally

⁶ Ibid, p.28, para. 56, b).

thought that the increased strength of booths would increase the quality of interpretation.

Trial period results

3. In the first few hearings after the configuration of booths was increased, there seemed to be some improvement. However, by studying the entire period, the Court Interpretation and Translation Section has been able to conclude that it appears that the improvement was mostly due to the raised awareness of all concerned, including parties and participants who were more frequently making pauses in interventions in the courtroom. In short, it can be said in general that the improvement was due to the increased understanding of a multilingual courtroom and not due to having more interpreters in the booth.
4. The arrangement with 4 rotating interpreters, meant they actually worked on microphone for short periods of time, most of the time spent in the reserve booth. This in fact meant that interpreters were more engaged in passive work than in active work meaning that they were less contributing to production of the good transcript and more to correcting a less good transcript. Having interviewed most interpreters, they did not have a problem with this - most of them being freelance interpreters found this a relatively easy assignment – but a couple of interpreters mentioned that they were in fact breaking their concentration by the rhythm of 30 minutes working on microphone and the rest of the time looking at the transcript and listening to speakers and interpretation.
5. It is important to note that the level of commitment, knowledge and motivation between freelance interpreters and staff interpreters is not the same. Staff interpreters are the ones who ultimately feel responsible for the interpretation in the courtroom and feel that the opinion of the parties and participants of their work is important. It is however worth noting that in

several interviews conducted with freelance interpreters, they have expressed their satisfaction with the Chamber's "policing" of speakers' interventions in the courtroom.

Lack of staff interpreters

6. One of the reasons why so many freelance interpreters have been used by the Court in its first trial was that four experienced staff interpreters, specifically from the English booth including Head of Interpretation, left the ICC between January and April. Testing, interviews and recruitment procedure to replace them have been finalised in the past few months and four new staff interpreters in the English booth including Head of Interpretation, will join the Court on 1 September 2009. As further requested by the Chamber in the Decision, a close monitoring of their performance will take place and a written report will be submitted in relation to the English booth following 15 hearing days in the Lubanga case after the summer recess.

French freelance interpreters in the English booth

7. Freelance interpreters who have worked in the English booth for the first part of the trial period have been both English and French native speakers. The reason for this was that there were not enough English freelance interpreters that could be recruited for the English booth with the changed configuration from three to four.
8. After a period of four weeks, it has been found that although there were some advantages (such as their initial reported ease of understanding of French-speaking witnesses), the freelance interpreters who were not English native speakers (they would normally work into English at conferences) should not be used in the English booth. The main reason was the heavy influence of French syntax on the English in the course of their delivery which was found to produce unorthodox sentences which could appear ambiguous. Therefore,

this practice was phased out. Freelance interpreters were encouraged to prepare more substantially for hearing by being given additional preparation days which gave better results.

Swahili booth

9. The initial interpretation issues that the Swahili booth had have been resolved; however, the technical issue remains. The Swahili booth is not adequately equipped for a bilingual booth and interpreters cannot switch language channels when they work, without considerable loss of time and concentration. In a normally functioning bilingual booth, an interpreter would work into Swahili as the counsel is asking questions. He would then change the channel and switch into French to interpret the answer of the witness. In the current Swahili booth in Courtroom 1, this is not possible as the interpreters would have to press two buttons simultaneously on two different consoles to change the channels. This is not a feasible proposition for any interpreters.
10. Thus far, the Swahili booth has worked in two different ways: if all four Swahili interpreters are available they can work two for 30 minutes and then be replaced by another two for another 30 minutes. Unfortunately, due to other activities, most of the time, the interpreters have been employing a method whereby two interpreters would work for the whole session, one into French and one into Swahili. This would be good in terms of continuity but not so good for the interpreters or for the quality of interpretation, as after a while the interpreters would become seriously fatigued. For the time being, this method is being discouraged (but only if all four interpreters are available) and as of 3 August another Swahili interpreter will be joining the team which would allow leeway in assignments and avoid exhaustion of interpreters. Moreover it has been decided that court interpreters can no

longer be assigned to other duties when court is in session. Other staff are recruited to carry out interpretation for purposes other than hearings.

Transcript review project

11. During the April recess, the project of partial review of the transcript was carried out. The original idea behind the operation was to compare ten dual transcripts (FRA and ENG) from the beginning of the trial highlight the discrepancies in interpretation. This was to be followed by listening to the audio.
12. Prior to the listening part of the project, it seemed that the French interpretation was solid but that there were numerous errors in the English interpretation if compared to the French transcript. The listening exercise proved long, labour intensive and painstaking. It was in fact about 10 times longer than the actual time of the recording. For each day of the hearing it would take ten days to listen to both the original and the interpretation and then compare this to the transcript. Specifically in the case of witness testimony in French, each testimony had to be listened five to six times after which the interpretation would be listened to and then the transcripts checked again. It was at this stage, upon listening to the audio, that many discrepancies between the French audio and the English interpretation became inverted, as the English interpretation and therefore the English transcript seem to relate more accurately what the witness had said in French than the French transcript.
13. However, in other cases, such as in transcript T-114 of 3 February 2009, for instance, the errors were more or less evenly distributed between the French transcript and the English interpretation. It is remarkable that the difficult words as pronounced by witness were sometimes caught by court reporters but eluded interpreters who either misunderstood them and interpreted

differently or omitted the words. On other occasions, the interpreters caught the meaning of different difficult words and were able to interpret them but the court reporters did not and often omitted these. It is interesting that they do not overlap. The reason for this is possibly that the interpreters and court reporters do not share the working method: while court reporters work on the basis of sounds that will create words, interpreters work on the basis of meaning.

Transcript review project lessons

14. The French transcript could not always follow accurately the French of the witnesses who were in fact Swahili, Lingala or Lendu native speakers and were transposing pronunciation of certain words according to their native language when speaking in French. This led to those from the "systeme vocalique" of pronunciation, where vowels are favoured, to dispense with certain consonants when pronouncing French words ("droo" instead of "drogue"). In a different phonetic system, "systeme consonnatique" some consonants were added to beginnings of words, particularly place names or names of people ("Django" is in fact "Ndjangu") as witnesses naturally leaned towards their native language pronunciation of a person's name or a place name.
15. Since the work of the court reporters is based on sounds and syllables, and therefore the pronunciation of a language they can recognise, once the pronunciation was not standard, the work of transcribing French in real time became virtually impossible. With hindsight, French court reporters – as well as English interpreters – would have had to undergo training in this type of French for a prolonged period of time.
16. This was not organised as there was no reason since most witnesses were going to testify in Swahili. It was the last minute change of language of

witnesses that had the greatest impact on the French transcript. If we look at the experience of the ad hoc Tribunals, the ICTY had mostly native BCS speakers from the country of the situation in the English booth who were therefore not confused by the heavy accents they heard while in the ICTR the opposite situation occurred of what we had happened at the ICC – most witnesses who were expected to testify in French testified in Kinyarwanda, including ministers and politicians.

17. Interpreters who performed the best in the English booth – as this booth was under significantly more scrutiny than the French booth which interpreted mostly polished English speakers and had no substantial surprises in terms of accent, only occasionally in terms of overlapping speakers and speed of delivery – were the more experienced interpreters and the one staff interpreter in the English booth. Additional preparation day for freelancers – usually on Mondays - was found to be useful as they were able to study the documents and find answers to any terminological inquiries.

Way forward

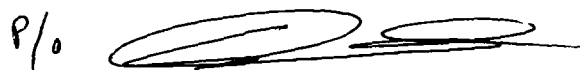
18. The following number of measures have already been included in the daily activity of the relevant staff:
 - a) The staff interpreters working on the Lubanga case have drafted Standard Operational Procedures. Since they were drafted, the interpreters have had additional positive experience with the Transcend software and have found it a practical and straightforward way of correcting the transcript;
 - b) At present all staff interpreters have had training in the applications needed to work efficiently on the Lubanga trial (Transcend, Ringtail,

TRIM etc.). All new interpreters joining the Court will undergo this training as well;

- c) Additional terminology support is being organised for the interpretation teams that will be starting to work after the summer recess. Case file for interpreters and court reporters with maps, glossaries, names and place names will form part of each interpreter's or court reporter's basic necessary documents;
- d) New English interpreters who have never worked with heavily accented French will be given supplementary training prior to joining the booth;
- e) A joint operations protocol for interpreters and court reporters is being drafted.

The present submission is filed *Confidential* as it relates to matters before the Chamber that are currently labelled as *Confidential*.

Respectfully submitted,



Marc Dubuisson, Director Division of Court Services

on behalf of

Silvana Arbia, Registrar

Dated this 15 July 2009

At The Hague, The Netherlands