

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 28 October 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's report following the review of witness evidence to ascertain accuracy of
the court records and consistency between the French and English transcripts**

Source: Registrar

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

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Section****Other**

Ms Charlotte Dahuron, Chief Court
Management Section
Ms Alexandra Tomic, Chief Court
Interpretation and Translation Section

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 the *"Registry report on interpretation matters"* filed on 16 July 2009;⁶

NOTING the *"Registry request in relation to the review of the transcripts of witness evidence"* ("the 31 August 2009 filing") submitted on 31 August 2009;⁷

NOTING the status conference of 17 September 2009, in which the Chamber granted the Registry an extension of the time limit for the completion of the review of witness evidence;⁸

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 Chamber has given the Registry specific instructions with regards to the review exercise to be carried on the witnesses' evidence to ensure accuracy of court transcripts against court recordings and, consistency between the French and English transcripts so as to provide a full and accurate record of the proceedings;⁹ to highlight any difficulties and errors revealed during the review process;¹⁰ and to inform the Chamber whether the alteration procedure suggested by the Chamber regarding the court reports is a useful development.¹¹

RESPECTFULLY SUBMITS to the Chamber the following report on items 56(a) at page 28, 56(f) at page 29 and 56(h) at page 30:

⁶ ICC-01/04-01/06-2053-Conf.

⁷ ICC-01/04-01/06-2100-Conf.

⁸ ICC-01/04-01/-6-T-210-ENG ET WT 17-09-2009 1-44 NBT p. 35, para. 20.

⁹ ICC-01/04-01/06-1974-Conf. p. 28, para. 56(a).

¹⁰ ICC-01/04-01/06-1974-Conf. p. 29, para. 56(f).

¹¹ ICC-01/04-01/06-1974-Conf. p. 30, para. 56(h).

Item 56(a):

"a) The Registry is instructed to review the entirety of the witnesses' evidence in order to ensure the accuracy of each relevant transcript against the recording as well as consistency between the French and English transcripts in order to provide a full and accurate record of the proceedings at the latest by the end of August 2009."¹²

1. The Registry informs the Chamber that since the 31 August 2009 filing, the review of the entirety of the witnesses' evidence of the proceedings i.e., a review of the audio recordings against the relevant transcripts and, a comparison between the English and French transcripts to ensure consistency between the two has been completed.

Item 56(f):

"f) The Registry is to review a sample of the court record following the evidence of Witness 16, together with a report on the accuracy and consistency of the record following the implementation of the aforementioned changes. Any errors or difficulties revealed should be highlighted in the report."¹³

2. Pursuant to the Order, the Registry reviewed the court record following the evidence of Witness 16. Upon completion of the review, it was noted that, compared to the earlier transcripts, there was a marked improvement in transcript quality in terms of accuracy and consistency between the French and English versions. The Registry is of the view that such improvement stems from

¹² *Ibid.*, p. 28, para. 56(a).

¹³ *Ibid.*, page 29, para 56(f)

compliance with the Chamber's directions to the parties and participants to speak slowly and pause where appropriate for the benefit of the court reporters and interpreters.

3. Furthermore, the Registry, upon reviewing the English and French transcripts noted a gradual and steady improvement in the quality of the transcripts as the trial unfolded. It was obvious during the review exercise that, the transcripts of June 2009 were of better quality than those of the initial months of the trial. The Registry attributes such steady improvement to the fact that, as the proceedings progressed, the parties and participants, under the direction of the Chamber, became increasingly conscious of the need to monitor their speech habits in order to ensure accurate transcription and efficient interpretation of the proceedings.
4. Notwithstanding the above improvements, the Registry noted that, even in the latter transcripts, there are certain persistent problems which could potentially damage future transcripts if ignored. These include, *inter alia*, witnesses speaking with a difficult accent and parties and participants who, despite their best efforts, cannot avoid speaking fast and/or interrupting each other. The result is blanks or omissions in the transcript, mistranslations and/or approximate rendition of the message. Since the likelihood of completely eliminating such problems is improbable, the Registry can only urge vigilance during the proceedings, so that these matters are addressed as and when they arise.

Item 56(h):

"h) The Registry is to report, following the evidence of the next two witnesses (*viz.* those after Witness 16), whether the alteration of procedure, that of typing in

the words the court reporters are uncertain of rather than simply entering *inaudible*, is a useful development.”¹⁴

5. Following the instructions of the Chamber not to type *inaudible*,¹⁵ the court reporters typed what they could hear phonetically, adding “(Phon.)” right after the term to indicate that they were not certain of the term used. This was used during the real time in order to invite direct correction by the courtroom participants.
6. The same procedure was used for the edited version, when court reporters were unable to ascertain the term, after listening and re-listening to the recording several times, and/or researching from open sources.
7. When resources and timeframe have allowed, court reporters have been assisted by an interpreter from the Swahili booth to ascertain some terms where their failure to understand a term resulted from a witness’ accent.
8. The Registry respectfully submits that there is a likelihood that, with the support of the parties and participants, this new practice would enhance the efficiency of the court records. It would be a tremendous help were the participants to try and assist in ascertaining the terms marked “Phon”, either in realtime by asking the term to be repeated and/or spelt out, or by providing after the ALO/Courtroom Officer with the proper spelling of those terms after the court session.

The Registrar wishes to assure the Chamber that all relevant measures have been taken to ensure compliance with the Chamber’s order to review witness evidence. Further, the Registry will endeavor, with the support of the Chamber, the parties and

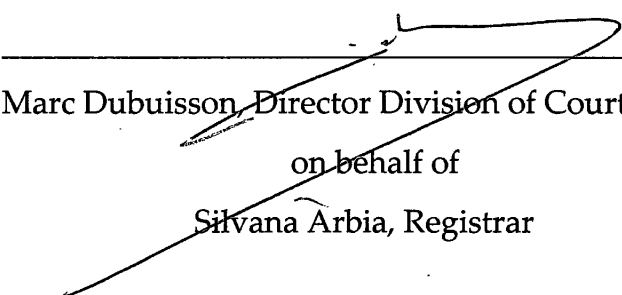
¹⁴ *Ibid.*, page 30, para 56(h).

¹⁵ ICC-01/04-01/06-Conf. p.8 -9, para 12 from line 17.

participants to the proceedings to continuously review and implement measures where necessary to enhance the accuracy of interpretation and transcription.

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 28th day of October 2009

At The Hague, The Netherlands