



Original: **French**

No.: **ICC-01/04-01/06**
Date: **24 October 2007**

PRE-TRIAL CHAMBER I

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

Registrar: Mr Bruno Cathala

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

Public Document

Defence application to receive real time transcripts of hearings in French

Office of the Prosecutor

Mr Luis Moreno Ocampo
Ms Fatou Bensouda
Mr Ekkehard Withopf

Counsel for the Defence

Ms Catherine Mabilie
Mr Jean-Marie Biju-Duval
Mr Marc Desalliers
Ms Caroline Buteau

Legal Representatives of Victims

a/0001/06 to a/0003/06 and a/0105/06

Mr Luc Walley
Mr Franck Mulenda
Ms Carine Bapita Buyangandu

BACKGROUND:

1. During the status hearing of 2 October 2007, the Defence raised before Trial Chamber I (“the Chamber”) the problems encountered by the Defence team owing to the fact that real time transcripts are available only in English;¹
2. It should be noted in this respect that English-language real time transcripts include both interventions made in English and the translation into English of interventions made in French;
3. On 3 October 2007, at the Chamber’s request², the Defence contacted the Registry by e-mail for more information on obtaining real time transcripts in French (see annex);
4. On 5 October 2007, the Defence received the Registry’s response by e-mail (annex, page 2), according to which “[t]o date, no viable solution that is compatible with the ICC’s electronic infrastructure has been identified, which explains the lack of real time transcripts in French”;³
5. In its response of 5 October 2007, the Registry told the Defence that a French transcript would be provided within two hours of the end of the hearing.

OBSERVATIONS:

6. The Defence team highlights its need of a real time transcript in French, a working tool of which it has been deprived since proceedings began:
 - French is one of the two working languages of the Court pursuant to article 50(2) of the Rome Statute;

¹ ICC-01/04-01/06-T-54-FRA, transcript of 2 October 2007, page 42, lines 15 *et seq.*

² ICC-01/04-01/06-T-54-FRA, transcript of 2 October 2007, page 44, lines 1 and 2.

³ Response from the Registry, annex, page 2.

- The Accused, Mr Thomas Lubanga Dyilo, and his defence team (in particular, counsel, assistants and the case manager) are all native French speakers and work exclusively in their mother tongue;
- The current situation creates inequality between the Parties to the detriment of the Accused and in violation of article 67(1)(f) of the Rome Statute,⁴ which states that the Accused has the right to such translations as are necessary to meet the requirements of fairness. Real time transcripts may be annotated by the Parties during the hearing in the Livenote program, a procedure that is not available during the hearing to Parties and Participants who wish to work in French and who are hence at a disadvantage compared with those working in English;
- Pursuant to the Regulations of the Court, real time transcripts of hearings in the working languages of the Court should be provided where technically possible.⁵ The Defence has been informed that it is technically possible at the International Criminal Tribunal for Rwanda to receive real time transcripts in one's language of choice, either French or English. The same should be true at the International Criminal Court;

⁴ See also rule 42 of the Rules of Procedure and Evidence.

⁵ Regulation 27 of the Regulations of the Court.

FOR THESE REASONS, MAY IT PLEASE TRIAL CHAMBER I TO:

ORDER the Registry to make available real time transcripts in French of hearings held before the Chamber in the instant case.

[signed]

Ms Catherine Mabile, Lead Counsel

Dated this 24 October 2007, at The Hague