

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

No.: ICC-01/04-02/06

Date: 23 March 2016

**TRIAL CHAMBER VI**

**Before:** Judge Robert Fremr , Presiding Judge  
Judge Kuniko Ozaki  
Judge Chang-ho Chung

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

**IN THE CASE OF  
*THE PROSECUTOR v. BOSCO NTAGANDA***

**Public**

**Registry's Observations pursuant to Trial Chamber VI's "Order requesting  
submissions on certain matters related to the Conduct of proceedings"  
(ICC-01/04-02/06-1198)**

**Source: Registry**

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

**The Office of the Prosecutor**

Ms Fatou Bensouda

Mr James Stewart

Ms Nicole Samson

**Counsel for the Defence**

Mr Stéphane Bourgon

Mr Luc Boutin

**Legal Representatives of the Victims**

Ms Sarah Pellet

Mr Dmytro Suprun

**Legal Representatives of the Applicants**

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**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

Ms Alexandra Tomic (Language Services  
Section)

**THE REGISTRAR** of the International Criminal Court (the “Court”)

**NOTING** the “Order requesting submissions on certain matters related to the conduct of proceedings”<sup>1</sup> (“Order”) issued by Trial Chamber VI (“Chamber”) on 8 March 2016;

**NOTING** rule 137 (1) of the Rules of Procedure and Evidence (“RPE”), regulation 43 of the Regulations of the Court (“RoC”) and regulations 64(1) and 64(4) of the Regulations of the Registry;

**CONSIDERING** that in its Order, the Chamber directed the Registry to file observations on how to resolve discrepancies between French and English transcripts and ensure greater consistency going forward, interpretation and transcription matters, and any other related matter;<sup>2</sup>

**CONSIDERING** that the Chamber granted an extension of time for the submission of Registry observations until 23 March 2016;<sup>3</sup>

**SUBMITS** the following:

## **I. Introduction**

1. A transcript is the product of several actors. Court reporters transcribe word for word, in English and French, what is said or interpreted during a hearing. The various speakers during a hearing are either, judges, trial attorneys, counsel or witnesses, should they use either French or English, or the interpreters, should another language be used.

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<sup>1</sup> ICC-01/04-02/06-1198.

<sup>2</sup> *Ibid*, p. 6 and points identified at sub-paragraph 3 (vii) and (viii).

<sup>3</sup> Email communicated by the Trial Chamber VI to the Registry on 23 March 2016 at 10.20 hours

## II. Transcription

2. Court reporters are required to produce a highly accurate real-time transcript in both English and French. This real-time transcript is what the participants to the hearings can see during the sessions within a few seconds of words being pronounced. Mistakes in the spelling of names, locations, or cases of misheard words will occur in the real-time transcript.
3. Following the hearings, the Court reporters further edit the transcripts to correct potential spelling, grammar mistakes and/or transcribe missing portions, if any. Finally, before distribution, the edited transcript is proofread for inaccuracies. Therefore, there is a regular quality control of transcripts, by way of producing the edited version.
4. However, the court reporters can only transcribe what has been recorded in either English or French, during the hearings. The quality, accuracy and clarity of the transcript depend heavily on the output of the various speakers and interpreters. The discrepancies in the transcripts, if any, are thus seldom resulting from transcribing mistakes but rather from potential errors in interpretation.

## III. Interpretation

5. Simultaneous interpretation is an oral translation of what is being said in the courtroom. The interpreters are rendering the *meaning* of one language into another as the speaker is speaking, capturing the letter and the spirit of the message. This means that when looking at two transcripts, it is possible that the word that has occurred in one language will not occur in the other. Firstly, the overall meaning has been rendered in another language differently without using the same words but with the same

meaning and secondly interpretation is never a word-for-word or literal translation.

6. In a hearing, it is essential that witnesses' testimonies are rendered accurately in another language(s), especially when no language *per se* prevails. Most witnesses speak either French or a situation language which sometimes is a language of lesser diffusion requiring relay where the interpreters are striving for accuracy. However, the output is not and will never be the equivalent to a revised or unrevised written translation.
7. Although it may be stating the obvious, it is important to remember that interpreters have to hear what is being said. This means that when there are overlapping speakers, where the speakers do not make a pause of 5 seconds after the previous speaker has spoken, the interpreters simply do not hear the end of the previous intervention or the beginning of the next one. The lack of discipline among speakers in a multilingual courtroom negatively affects the quality of the interpretation to the extent that the interpreter is put in a position where technically and mentally he or she cannot properly process the messages.

#### **IV. Suggestions**

8. Due to the reported inaccuracies, the Registry suggests that the following measures be considered:

##### **A- Hiring a linguist and reinforcing the active monitoring of the proceedings**

9. Currently, live quality monitoring is done by either the other interpreter (the one who is not interpreting, as there are always two sitting in the booth) and by the Head of Interpretation who checks accuracy at random

intervals. In the coming weeks, the Registry intends to undertake a thorough review of the correction requests submitted so far in this case. If numerous errors in meaning are found in the transcripts, the Registry will consider recruiting an editor who would regularly, on a daily basis, compare the edited versions of the English and French transcripts and correct discrepancies.

B- Strict implementation of the speaking policy

10. The accuracy and completeness of transcription and interpretation depends, largely, on the speed and discipline of the speakers. Speakers are advised to avoid overlapping, to speak at a moderate pace and to respect breaks between questions and answers. The Courtroom Officer, as representative of the Registrar, is responsible for ensuring that a "full and accurate" record of proceedings is made. To this end, he or she can further assist the Presiding Judge by intervening directly to force strict implementation of the speaking policy. While potentially disruptive at the outset, this measure will help improve the flow of the proceedings, reduce the number of mistakes and the overlapping, and ultimately positively affect the overall quality of interpretation.

C- Reporting of mistakes in "real-time"

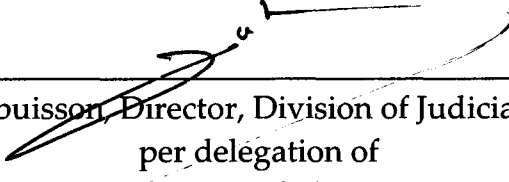
The fastest and most efficient way to correct errors has been immediate or near immediate correction on the record, during the hearing itself. The parties should be encouraged to report major errors of sense as soon as detected during the hearing. In addition, the parties are encouraged to circulate the correct spelling of locations and names to the Courtroom Officer during the hearings. However, requests for corrections made

following the hearings should be based on the edited version of the transcripts.

D- Maintaining the 4.5 hours schedule

11. Interpretation teams are organised on the basis of 4.5 hours sessions as a standard.<sup>4</sup> When last minute changes are made to the sitting schedule, it is often difficult to reinforce the teams, especially the ones dealing with non-working languages, such as Kinyarwanda (or any other non-working languages). Sitting beyond the scheduled time can cause fatigue, reduce attention and ultimately causes mistakes in interpretation. In light of this, it is therefore preferable that last minute changes to the scheduling are, as much as possible, an exception rather than a rule.

12. The Registrar has no observations to submit regarding any other related matter as *per* sub-paragraph 3 (viii) of the Order.



Marc Dubuisson, Director, Division of Judicial Services  
per delegation of  
Herman von Hebel, Registrar

Dated this 23 March 2016

At The Hague, The Netherlands

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<sup>4</sup> See Regulations 64(1) and 64(4) of the Regulations of the Registry on interpretation services provided at hearings.