

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: **ICC-02/04-01/15**

Date: **12 March 2021**

APPEALS CHAMBER

Before:

**Judge Luz del Carmen Ibáñez Carranza, Presiding Judge
Judge Chile Eboe-Osuji
Judge Howard Morrison
Judge Piotr Hofmański
Judge Solomy Balungi Bossa**

SITUATION IN UGANDA

**IN THE CASE OF
*THE PROSECUTOR v. DOMINIC ONGWEN***

**PUBLIC
with Public Annex A**

Public Redacted Version of ‘Corrected Version of “Defence Notification of Priority Sections of the Trial Judgment to be Translated and other Related Requests”’, filed on 12 March 2021

Source: Defence for Dominic Ongwen

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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Language Services Section (LSS)

I. INTRODUCTION

1. The Defence for Dominic Ongwen ('Defence') hereby submits its list of priority sections of the Trial Judgment¹ for translation by the Language Services Section ('LSS') in conformity with the "Decision on Mr Ongwen's request for time extension for the notice of appeal and on translation."²
2. The Defence also requests, in order to limit the proverbial middle-persons and delays caused therein, that someone from LSS be designated a liaison between the Defence in order to expedite the translated sections delivery to Mr Ongwen.³
3. Finally, the Defence requests an update from LSS on the Defence's 19 February 2021 translation request of the Trial Judgment.
4. With the utmost respect, by filing this notification, the Defence does not waive its argument that Mr Ongwen's deserves a full Acholi translation of the Trial Judgment before continuing with the proceedings pursuant to his fair trial right as argued previously.⁴ Furthermore, the Defence does not waive Mr Ongwen's rights for any further requests for time limit extensions pursuant to the Rules of Procedure and Evidence.⁵

II. CONFIDENTIALITY

4. Pursuant to Regulations 23bis of the Regulations of the Court ('RoC'), this notification is submitted as confidential as it refers to names not covered by the counsel exception. The Defence files a public redacted version contemporaneous to this request.

III. PROCEDURAL HISTORY

5. On 4 February 2021, Trial Chamber IX rendered its Judgment. The Trial Chamber found Mr Ongwen guilty of 61 counts, which include the crime sites of Pajule, Odek, Lukodi and Abok, charges related to sexual and gender-based crimes and use of child soldiers.⁶

¹ [ICC-02/04-01/15-1762-Red.](#)

² [ICC-02/04-01/15-1781.](#)

³ [REDACTED].

⁴ [ICC-02/04-01/15-1764-Red.](#) See also [ICC-02/04-01/15-1766-Red.](#)

⁵ The Defence notes this in relation to its recent request to Trial Chamber IX, ICC-02/04-01/15-1791-Conf, notified on 12 March 2021 to Trial Chamber IX, the Appeals Chamber, Prosecution, Legal Representatives and the Registry.

⁶ [ICC-02/04-01/15-1762-Red.](#)

6. On 5 February 2021, the Defence contacted Language Services Section ('LSS') about the status of the Acholi translation of the Judgment.⁷
7. On 10 February 2021, the Defence requested, through Counsel Support Section ('CSS') as required, to have the entire Trial Judgment translated into Acholi.⁸ The Defence noted that it was reading through the Trial Judgment, and that it would come back with a more targeted request later, but for the time being, the Defence requested that LSS start the translation on page 9 of the Trial Judgment.⁹ CSS responded 40 minutes later, thanking the Defence for its email and that it would get back to the Defence shortly.¹⁰
8. On 19 February 2021, the Defence wrote to CSS asking for a timeline from LSS for the translation request.¹¹ CSS responded seven (7) minutes later, stating, "Please note that no time estimate can be given yet as in 2021 LSS depends on external resource for Acholi. Could you kindly let us know if you were able to identify parts of the documents as a priority? We will then inform LSS that they can focus on these parts first."¹² The Defence responded two (2) minutes later, stating,

Thank you very much for your response.

Has LSS even started on it? The Rome Statute, Rules and Regulations require that the entire document is translated into Acholi.

As for the identification, we are figuring out key areas this weekend, but it is request [sic] still, kindly, that LSS start immediately on this request. I do not want the same thing that happened in Ntaganda to happen here.¹³

9. On 19 February 2021, the Defence responded further to LSS through CSS. The Defence requested that LSS start the translation on Section IV.B.2 – Testimonial evidence, paragraphs 251-612.¹⁴ The Defence also stated that it would be identifying more sections on Monday.¹⁵ CSS responded 20 minutes later, thanking the Defence for the previous email.¹⁶

⁷ Phone call from [REDACTED] to [REDACTED], 5 February 2021.

⁸ Email from [REDACTED] to LSS through CSS, *D26 – Translation Request*, sent on 10 February 2021 at 12h07 CET.

⁹ *Ibid.*

¹⁰ Email from CSS to [REDACTED], *RE: D26 – Translation Request*, received on 10 February 2021 at 12h47 CET.

¹¹ Email from [REDACTED] to CSS, *Re: D26 – Translation Request*, sent on 19 February 2021 at 14h28 CET.

¹² Email from CSS to [REDACTED], *RE: D26 – Translation Request*, received on 19 February 2021 at 14h35 CET.

¹³ Email from [REDACTED] to CSS, *Re: D26 – Translation Request*, sent on 19 February 2021 at 14h37 CET.

¹⁴ Email from [REDACTED] to LSS through CSS, *Re: D26 – Translation Request*, sent on 19 February 2021 at 15h26 CET.

¹⁵ *Ibid.*

¹⁶ Email from CSS to [REDACTED], *RE: D26 – Translation Request*, received on 19 February 2021 at 15h46 CET.

10. On 24 February 2021, the Appeals Chamber issued the “Decision on Mr Ongwen’s request for time extension for the notice of appeal and on translation” (‘Decision 1781’).¹⁷ The Appeals Chamber order the Defence to issue a list of priority sections, in order, to be translated by LSS, limiting the pages per section to 25 pages.¹⁸

11. On 10 March 2021, the Defence wrote to CSS, stating:

While we are working on the exact pages and paragraphs as instructed by the Appeals Chamber, the Defence makes two polite requests:

1) Can you please update us on the status of the request made on 19 February 2021. Knowledge of the answer from LSS will better guide us on our list for 12 March 2021 as instructed by the Appeals Chamber.

2) Can you please tell us whom to contact directly about the translation. Of course, CSS will be included in all translations. Contacting LSS directly is a means to ensure that the translation is being done and having the sections in a timely manner.¹⁹

12. On 10 March 2021, CSS responded, stating, “We will check with LSS and get back to you shortly.”²⁰

13. On 12 March 2021 at 04h23 CET, the Defence sent another email to LSS through CSS requesting the same information from its email on 10 March 2021 at 12h31 CET.²¹

IV. NOTIFICATION AND SUBMISSIONS

14. Pursuant to Decision 1781, paragraph 12, the Defence hereby attaches its list of priority sections, in order, for translation by LSS as Public Annex A. Once the list has been completed, the Defence requests that LSS finish the remaining paragraphs not listed in Public Annex A.

15. The Defence notes that some of the sections are above the 25-page limit ordered by the Appeals Chamber. The Defence humbly requests that the Appeals Chamber decides that these few sections are acceptable as many of the requested sections far fall below the 25-page limit. It is the humble opinion of the Defence that these sections, ones which are greater than 25 pages, are necessary and limited in number.

¹⁷ ICC-02/04-01/15-1781.

¹⁸ *Ibid*, para. 12.

¹⁹ Email from [REDACTED] to LSS through CSS, *Re: D26 – Translation Request*, sent on 10 March 2021 at 12h31 CET.

²⁰ Email from CSS to [REDACTED], *RE: D26 – Translation Request*, received on 10 March 2021 at 13h37 CET.

²¹ Email from [REDACTED] to LSS through CSS, *Re: D26 – Translation Request*, sent on 12 March 2021 at 04h23 CET.

16. The Defence also requests, if LSS does not take its own initiative, that a liaison be designated from LSS to liaise with the Defence on the translated sections. The Defence has already made such a request, but has not received an answer from LSS through CSS. For its part, the Defence shall continue to copy CSS into its correspondence with LSS.
17. The Defence avers that a liaison between LSS and the Defence shall expedite requests and knowledge of the status of translations. As written above, the Defence requested a specific section to be translated on 19 February 2021 (*i.e.* three (3) weeks ago), yet the Defence still, to this day, does not know about the status of the request. Having a liaison between LSS and the Defence should lessen such problems.
18. Finally, the Defence requests a status update from LSS on the translation request of the Trial Judgment. The Defence made the initial request to have the Trial Judgment translation on 10 February 2021, gave a specific section for LSS to start with on 19 February 2021, and is yet to receive an update on the translation.

V. RELIEF

19. The Defence for Dominic Ongwen:
 - a. Attaches Public Annex A with its list of priority sections of the Trial Judgment to be translated by LSS;
 - b. Requests that the Appeals Chamber accept the list with a few sections being over the 25-page limit request in Decision 1781;
 - c. Requests a liaison be designated from LSS to liaise with the Defence about the progress of the Trial Judgment's translation; and
 - d. Requests that LSS be ordered to update the Defence on the status of its translation request from 19 February 2021.

Respectfully submitted,



.....
Hon. Krispus Ayena Odongo
On behalf of Dominic Ongwen

Dated this 12th day of March, 2021

At Kampala, Uganda