



Anand Shah <Redacted>

Re: Reducing translation burden

Anand Shah <Redacted>

Fri, Aug 5, 2011 at 11:46 AM

To: "Zago, Alice" <Redacted>

Cc: "Omofade, Adebawale" <Redacted>

"Popova, Biljana" <Redacted>

"Baiesu, Victor" <Redacted>

Nick Koumjian <Redacted>

karim khan

<Redacted>

Ibrahim Yillah <Redacted>

Leigh Lawrie

<Redacted>

Aidan Ellis <Redacted>

Anna Katulu <Redacted>

Dear Alice,

Thank you for your email of yesterday evening. We believe there may have been some misunderstanding on the part of the Prosecution with respect to Nick's proposal of 14 July. To be clear, the Defence's position (and proposal) on this matter is as follows:

1. The clients have a statutory right: a) pursuant to Rule 76(3) to have the "statements of prosecution witnesses [...] in original and in a language which the accused fully understands and speaks"; and b) pursuant to Article 67(1)(a) to have the DCC, LoE and any pre-trial brief likewise translated into a language the accused fully understands and speaks.

2. As was noted by the Defence at the 12 July Status Conference, the Decision of 23 October 2009 issued by Trial Chamber II in *Katanga* (ICC-01/04-01/07-1553, para. 35) establishes that the Prosecution must produce signed witness statements of all witnesses it wishes to present at trial.

3. In line with the above basic fair trial rights of the clients, the Prosecution must provide the Defence with fair, accurate, well-organized and signed statements for each and every witness it intends to rely upon at trial, which must then be fully translated into Zaghawa.

- Naturally, such statements have already been produced for the AMIS witnesses, third-party witnesses and Witness 439, and the Prosecution should have begun translating these statements, in full, into Zaghawa. The Defence respectfully requests that the Prosecution please inform the Defence what translations the Prosecution has undertaken with respect to these witnesses.

- For witnesses 307 and 442, whose interview transcripts run to several hundred pages, the Prosecution must, in accordance with the above *Katanga* Decision, produce fair, accurate, well-organized statements based on these transcripts and any other relevant materials in the OTP's possession, which witnesses 307 and 442 must then review, amend if necessary, and then agree and sign (i.e. the same types of statements that have been produced for the AMIS witnesses, third-party witnesses and Witness 439). These signed statements must then be translated, in full, into Zaghawa.

- For the re-interviews, and the interviews of new witnesses, the Prosecution must likewise produce fair, accurate, well-organized and signed statements for these witnesses, which are then translated, in full, into Zaghawa.

- For the DCC and any pre-trial brief, the Prosecution must also produce full Zaghawa translations of these documents.

4. In the spirit of cooperation with the Prosecution and in order to expedite the proceedings in a manner that preserves the basic fair trial rights of the clients, the Defence inform the Prosecution that the LoE (which runs to several hundred pages) need not be translated into Zaghawa. This would of course *significantly* reduce the Prosecution's statutory translation burden. In addition, the Defence note that the Prosecution acting in accordance with the unchallenged *Katanga* Trial Chamber jurisprudence would also effectively reduce its translation burden with respect to witnesses 307 and 442 (and potentially with respect to the re-interviews and interviews of new witnesses).

In the event there was any misunderstanding on the part of the Prosecution we trust the above clarifies matters. We look forward to the Prosecution's timely response.

Kind regards,

Anand

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