

ANNEX XII

PUBLIC

From: Trial Chamber IX Communications
Sent: 06 April 2020 14:57
To: [REDACTED]
 [REDACTED] Trial Chamber IX Communications;
 [REDACTED]
Subject: RE: Defence request for correction of transcript T-258
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Defence,

The request for corrections of the transcript denied.

Transcripts 'constitute an integral part of the record of the proceedings.' (Regulation 27(2) of the Regulations of the Court) The purpose of the transcript is to faithfully reflect what has been said in during the proceedings. It is in this regard that the term 'correction' and corrected transcript in the meaning of Regulation 50 of the Regulations of the Registry needs to be understood.

Defence does not submit that T-258 reflects inaccurately what has been said in the court room, but merely wishes to correct (wrong) factual statements. The transcript cannot be changed for these purposes.

However, the Chamber notes that for the third part of the request (corrections to p.63 of T-258) the real name of the expert is explained via the context. Further, the Chamber has also taken note of the explanations provided for the requested changes on pages 54 and 55 of the transcript.

Kind regards,
 Trial Chamber IX

From: [REDACTED]
Sent: 06 April 2020 14:39
To: [REDACTED] Trial Chamber IX Communications
Cc: [REDACTED]
Subject: RE: Defence request for correction of transcript T-258

The Prosecution believes that the transcript of proceedings should reflect what was actually said, not what the speaker now wishes they had said.

The Chamber can make its own determination as to the validity of the matters raised below, and conduct its deliberations accordingly.

The request should be denied.

Ben Gumpert

From: [REDACTED]
Sent: 06 April 2020 10:34
To: Trial Chamber IX Communications
Cc: [REDACTED]
Subject: Defence request for correction of transcript T-258

Dear Trial Chamber IX,

The Defence writes in respect to the correction of transcript ICC-02/04-01/15-T-258-CONF-ENG ET. Specifically, the request concerns three discrepancies in Counsel Beth Lyons' closing statement:

- a) **Page 54, lines 22-24:** "D-133 is a retired UPDF major who himself had been abducted in the 1980s by the UPDF predecessor organisation, [the Lord's Resistance Army](#) [...]". The Defence requests that the Trial Chamber permit to replace "the Lord's Resistance Army" with "the National Resistance Army". Although Ms Lyons said "the Lord's Resistance Army", the preceding phrase "the UPDF predecessor organisation" indicates that Ms Lyons meant to say and was referring to "the National Resistance Army". Moreover, D-133 was never abducted by the LRA.

- b) **Page 55, lines 4-5:** "The second point, child soldiers do not act on their own volition. And this was a point that was echoed in [T, T-03's](#) testimony as well". The Defence requests the Trial Chamber for permission to replace "T, T-03's" with "D-133". Similarly, even if Ms Lyons inadvertently said "T, T-03's testimony", she was referring to D-133's testimony. The term "T,T-03" does not exist in the *Ongwen* case record.

- c) **Page 63, line 23:** "confirmed fundamentally by your expert, [Professor de Joop](#) in 2016". **Page 65, lines 22-24:** "[...] by the Court-appointed expert, [Professor de Joop](#) [...] I will not read from [Professor de Joop's](#) report [...]". **Page 71, lines 20-21:** "[Professor de Joop](#) -- I'm sorry, de Jong - [Joop](#) is his first name [...]". Here, the Defence requests that the Trial Chamber permit to replace Ms Lyons' inaccurate references to Professor de Jong as "Professor de Joop". As noted on page 71 of the transcript, Ms Lyons corrected herself and explained that she intended to say "Professor de Jong".

The Defence is aware of the Trial Chamber's instructions that requests for transcript corrections are to be made to the Registry within 21 days from the notification of the edited version of the transcript (ICC-02/04-01/15-497, para. 38). Nonetheless, it is the Defence position that the exceptional basis of the present request requires the Trial Chamber's attention and approval.

In order to ensure that the *Ongwen* case record is accurate and the conduct of the proceedings is fair and expeditious, the correction of the above discrepancies is necessary. Moreover, given that the requested corrections are only formal in nature, they will cause no prejudice to the Prosecution and Victims. Pursuant to article 64(2) of the Statute, the Defence thus respectfully requests that the Trial Chamber order the Registry to correct the identified discrepancies.

Kind regards,

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