

ANNEX 18

PUBLIC

From: Trial Chamber V Communications
Sent: 16 July 2021 12:08
To: Dimitri, Mylene; Trial Chamber V Communications
Cc: OTP CAR IIB Managers; OTP CAR IIB Case Management; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Associate Legal Officer-Court Officer; Office of the Director DJSS; Chamber Decisions Communication
Subject: RE: Interpretation

Dear Counsel, dear colleagues from the Registry,

The Chamber takes note of the problems with the interpretation and transcripts in this case and appreciates the examples provided by the Prosecution and Yekatom Defence below.

Before raising the matter with the Registrar, the Chamber invites the relevant sections of the Registry to make any observations by 23 July 2021.

Kind regards, TC V

From: Dimitri, Mylene [REDACTED]
Sent: 15 July 2021 17:08
To: Trial Chamber V Communications
Cc: OTP CAR IIB Managers; OTP CAR IIB Case Management; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Associate Legal Officer-Court Officer; Office of the Director DJSS
Subject: Interpretation

Dear Trial Chamber V,

The Yekatom Defence and the Prosecution, with the greatest respect to the difficult work of the Court Interpreters, would like to raise [their](#) concerns regarding the real-time interpretation in these proceedings. Specifically, the Yekatom Defence and the Prosecution respectfully draw the attention of the Chamber to a relatively high proportion of English and French interpretation errors.

The accurate interpretation of what is said by Parties, Participants and of course, witnesses during hearings, has a significant impact on the proceedings. For one, errors regarding witnesses' evidence could result in miscommunications and, by extension, ineffective and unnecessarily laborious questioning. For example, during the evidence of P-1577, the LRV sought to question the witness in relation to [REDACTED] a group of individuals, and specifically, in relation to an individual wearing a red t-shirt. In the question, the interpreter translated "red t-shirt" as "red shorts". In the event, the witness happened to speak sufficient French to understand the original question posed by the LRV and raised the error directly with the Chamber; nonetheless, the Yekatom Defence submits that this example clearly illustrates the potential for fundamental miscommunication posed by erroneous interpretation.

The following examples comprise a number of the more significant interpretation errors that have occurred during the evidence of witnesses who have appeared in these proceedings:

P-2012

Example 1:

Original English version T-025-ENG, page 19:

4 the language and all these things. And there was more looting and also
 5 the resistance was mainly when Séléka took over, which was obviously from
 6 the FACA, which was mainly dominated by the central and western part of the
 7 country, so being non-Muslims, mainly was part of that army, the national army in
 8 CAR. **So there was more, would you say, quote-unquote Christians killed than**
 9 **Muslims killed when Séléka took over.**
 10 Now, again, when the FACA started to organise the resistance against Séléka together
 11 with Anti-Balaka,

Mistake in the French version T-025-FR, page 17:

21 langue. Et il y avait beaucoup de pillages. Et la résistance venait principalement
 22 des... des FACA, qui étaient constituées principalement de... de... de la partie de la
 23 population du centre et de l'ouest du pays. Ça n'était pas forcément des musulmans,
 24 c'était l'armée nationale de la République centrafricaine. Et lorsque les FACA ont
 25 commencé à s'organiser et à organiser la résistance contre la Séléka, avec l'aide des
 26 Anti-balaka,

Example 2:

Mistake seems to be in the Original English version T-025-ENG, page 33:

22 atrocities, so I think that was what Séléka was mobilised on, right. And I think **once**
 23 **Bozizé and Séléka came to power**, I think again the population in Central African

The French version T-025-FR, page 31:

8 Donc, les Séléka ont été mobilisés pour trouver une solution à tout cela. Et **une fois**
 9 **que Bozizé est parti, Séléka est arrivé.** La population en République centrafricaine et

*Example 3:*Mistake in the English version T-025-FR, page 38:

14 Q. [11:53:37] Given the pressure exercised by Sudan and Chad which we also
 15 discussed and the presence of foreign mercenaries among the Séléka, would you
 16 agree that the local population or even the local organisations in the CAR generally
 17 saw the arrival of the Séléka **as a foreign invasion?**

Original French version T-025-FR, page 35:

14 Q. [11:53:42] Étant donné la pression exercée par le Soudan et le Tchad, comme nous
 15 en avons discuté il y a quelques instants, pression exercée auprès des... ou sur les...
 16 les mercenaires étrangers qui faisaient partie de la Séléka, seriez-vous d'accord pour
 17 dire que la population locale, ou même les organisations locales en République
 18 centrafricaine, avaient vu, d'une manière générale, l'arrivée de la Séléka — ou perçu
 19 cela — **comme étant une invasion de... du Nord ?**

*Example 4:*Mistake in the English version T-025-FR, page 65:

3 Q. [14:22:39] And, according to Mokom, Mr Ngaïssona was sidelined, did not have
 4 much power, and was confined to Boy-Rabe area **with no control outside of Bangui**; is
 5 that right?

Original French version T-025-FR, page 60:

23 Q. [14:22:41] Mais d'après Mokom, M. Ngaïssona était mis sur la touche, il n'avait
 24 pas beaucoup de pouvoir. On l'a confiné au quartier de Boy-Rabé, **il n'avait aucun**
 25 **contrôle sur le reste de Bangui ;** c'est bien cela ?

*Example 5:*Original English version T-026-ENG, page 4:

17 A. [9:38:42] Well, so there are two -- the two main reports, right? So the first one,
 18 Behind the Headlines, which -- which came at a sort of relatively early stage **in the**
 19 **conflict where our interest was, as the title says, to go behind the headlines. So**
 20 **international headlines very much talked about religious conflict and the idea here**
 21 **that our goal and aim was to look behind those headlines and provide policymakers**
 22 **and others a bit more depth in understanding what the concept of the conflict was**
 23 **about.** And then the -- the second report was exactly looking at, so what continues
 24 to drive the violence, you know, a year later into the conflict, so looking at natural
 25 resources, enrichment, sort of those issues.

Mistake in the French version T-026-FR, pages 3-4:

25 R. [09:38:44] Il y a deux rapports. Il y en a un qui est arrivé et qui s'appelle Behind the
 26 Headlines, en anglais, et qui est au début du conflit. **Comme on le dit, c'est celui qui**
 27 **aborde le conflit religieux. Et nos objectifs étaient d'analyser ces... ces grands titres, et**
 28 **aller un peu plus en profondeur, et essayer de voir quel était le... le concept en**
 1 **question.**
 2 Et puis, dans le deuxième rapport, on a plutôt cherché à savoir ce qui continuait à

3 alimenter cette violence. On était un an plus tard. Alors, là, on a voulu voir les
4 ressources naturelles, l'enrichissement, et cetera.

Example 6:

Original English version T-026-ENG, page 25:

2 Q. [10:31:09] Okay. Now, I have some questions from your "Behind the Headlines,
3 Drivers of Violence" report and May 2014 I think is the date of the report. In your
4 statement at paragraph 44 you refer to the report, and in the first introduction of
5 that report, the last sentence in the paragraph reads, quote, "**The Anti-Balaka ...**
6 **professionalised**, acquired **powerful** armies, and attacked Bangui **in December 2013**,
7 weakening the Séléka, **who largely left the capital in January**."
8 In the report, I see there's no footnote for that statement, right? Is that just because
9 it's the introduction and it's sort of a general summary of what follows?

Mistake in the French version T-026-FR, page 23:

11 Q. [10:31:23] J'ai des questions sur votre rapport Au-delà des gros titres, les moteurs de
12 la violence, 2014 — je crois que c'est la date du rapport, n'est-ce pas, 2014 —, et dans
13 votre déclaration, au paragraphe 44.
14 Dans la première introduction de ce rapport, la dernière phrase est: « Les
15 **Anti-balaka, un groupe professionnel**, ont obtenu des armes **professionnelles** et ont
16 attaqué Bangui **en 2000... en décembre 2014**, en affaiblissant ainsi la Séléka **qui était**
17 **dans la capitale en janvier**. »
18 Et je vois que, pour cette déclaration, c'est... il n'y a pas de note de bas de page. Est-ce
19 que c'est parce que c'est une introduction ou une déclaration générale de ce qui va
20 suivre ?

Example 7:

Original English version T-026-ENG, page 34:

7 "Senior FACA commanders like Captain Joachim Kokaté, Lieutenant Maxime Mokom
8 and Corporal Alfred Yekatom from the" quote "Presidential Guard" close quote, "have
9 used their military experience to take control of some Anti-Balaka groups."
10 And your source is footnote 129 which we'll talk about in a minute.
11 **I suggest to the witness that there will be evidence in this case that Mr Yekatom was**
12 **not a member of the presidential guard**.
13 You personally don't have any information to disagree with that, right?

Mistake in the French version T-026-FR, page 31:

12 Et le capitaine Joachim Kokaté, par exemple, et Maxime
13 Mokom et Alfred Yekatom de la Garde présidentielle ont pu utiliser leur expérience
14 militaire pour prendre le contrôle de ces groupes anti-balaka. Et c'est ce que nous
15 retrouvons à la note en bas de page n° 129.
16 Et je suppose... **Je vous propose l'idée suivante: c'est qu'il n'y a aucune preuve ici**
17 **que M. Yekatom n'était pas membre de la Garde présidentielle**. Vous n'avez aucune
18 information qui permette de contredire ou confirmer ceci ?

P-1577

Example 1:

Original English version T-28-CONF-ENG, page 19:

2 A. [10:24:43] I have in my statement in paragraph 5, a paragraph there that states
3 that I'm comfortable responding to issues surrounding the Anti-Balaka but not to

4 **discuss any issues around the crimes of the Séléka**, for security purposes for people
5 that are on the ground.

Mistake in the French version T-028-CONF-FR, page 18:

14 R. [10:24:42] Dans mon... ma déclaration, au paragraphe 5, il y a un paragraphe qui
15 indique que cela ne me pose pas de problème de répondre aux questions concernant
16 les Anti-balaka, **mais non pas pour discuter des crimes concernant les Anti-balaka**,
17 pour des raisons de sécurité sur le terrain.

Example 2:

Original English version T-28-CONF-ENG, page 67:

20 A. [14:35:06] **It's -- we travelled to Boda. So it's on 4 February**, I believe, when we
21 travelled to Boda and we made an unscheduled stop in Mbaïki because of the
22 late -- lateness of the evening. So we got to Mbaïki quite late that -- that evening.
23 So you're -- you're quite right that it's not on that list, but we did stop overnight in
24 Mbaïki with the French contingent.

Mistake in the French version T-028-CONF-FR, page 70:

5 R. [14:35:11] **Nous sommes allés vers la frontière, donc je pense que c'était le**
6 **1er février**, et nous nous sommes arrêtés à Mbaïki, ce qui n'était pas prévu, en raison
7 de.. de l'heure tardive dans la soirée ; nous sommes arrivés assez tard à Mbaïki ce
8 soir-là. Et vous avez tout à fait raison, cela ne figurait pas sur cette liste, mais nous
9 nous sommes arrêtés pour la nuit à Mbaïki avec le contingent français.

P-2841

Example 1:

Example 3:

Original French version T-30-CONF-FRA ET, page 16

24 R. [10:22:58] Oui. C'est exact. Parce que, comme je dis, **ces deux-là jouaient, à un**
25 moment donné, un double jeu, parce que c'est des militaires qui étaient en fonction
26 et, à cette époque, on commençait à distribuer des galons. On commençait à
27 distribuer des galons, donc je comprends aisément pourquoi les... ils sont devenus
28 très instables au niveau de... des communications qu'ils faisaient et tout.

Mistake in the English version T-030-CONF-ENG ET, page 15

3 A. [10:23:02] Yes, that's correct because, as I said, **this was a double game because it**
4 was military and at that time they started to distribute various items, so it became
5 very unstable as regards the communications he made.

Example 4:

Original French version T-30-CONF-FRA ET, page 54:

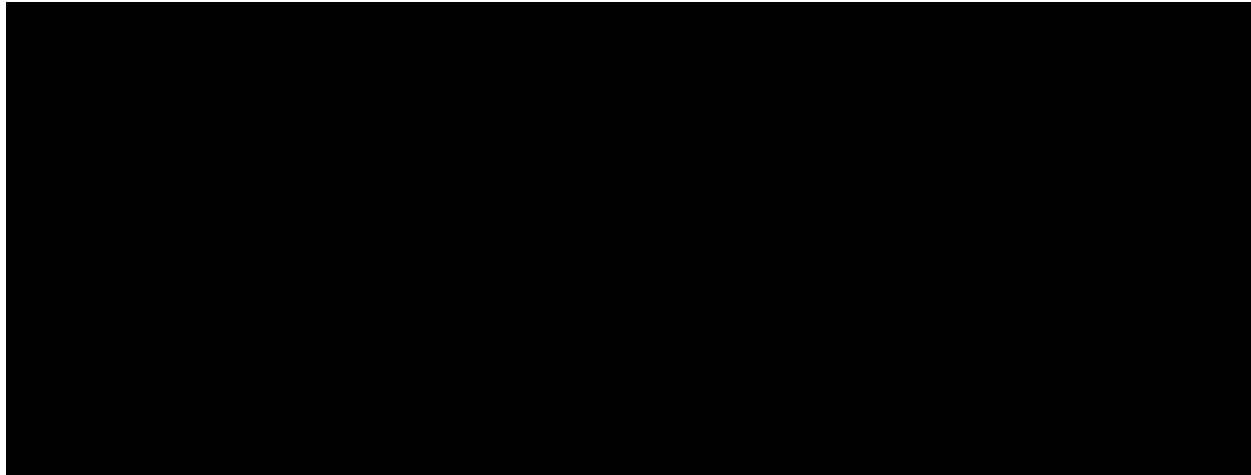
12 Q. [12:49:46] Mais là, vous parlez, donc, d'habitants des quartiers, de locaux par
 13 rapport aux Anti-balaka, n'est-ce pas ?
 14 R. [12:49:59] Oui, oui, ça c'est un jeune du quartier qui a été pris à partie par un
 15 élément séléka, et puis après, il y a eu réaction du quartier et les éléments séléka,
 16 aussi, sont venus en représailles.

Mistake in the English version T-030-CONF-ENG ET, page 51:

19 Q. [12:49:43] But here you're talking about locals as opposed to the Anti-Balaka; is
 20 that correct?
 21 A. [12:50:01] Yes, yes, this was done by -- happened with the Séléka element and
 22 then the reaction to that as reprisals.

P-2926

Example 1:

Example 3:*Example 4:**Example 5:*Original French version T-031-CONF-FRA, page 40:

3 R. [12:17:14] Les régimes centrafricains ont l'habitude d'utiliser les organisations de...
 4 de jeunes, à la fois pour chanter et pour participer à des... à des célébrations
 5 publiques, mais aussi pour soutenir leur... **leur allié politique**, et parfois pour faire
 6 aussi de l'agitation.

Mistake in the English version T-031-CONF-ENG, page 40:

8 A. [12:17:17] The Central African government uses organisation of young people,
 9 both to participate in celebrations of a public nature, but also **to support political**
 10 **rallies** and sometimes to cause a bit of agitation.

*Example 6:*Original French version T-031-CONF-FRA, pages 66:

8 R. [15:04:54] Non, je n'ai pas connaissance d'un lien entre M. Demafouth et
 9 Révolution et Justice, mais en effet, Révolution et Justice était une réinvention de
 10 l'APRD puisque la plupart des commandants de Révolution et Justice étaient
 11 d'anciens commandants de l'APRD. **Révolution et Justice, à ma connaissance, était**
 12 **dirigé par Armel Sayo**, qui était aussi à la conférence de Brazzaville en 2014.

Mistake in the English version T-031-CONF-ENG, pages 66-67:

22 A. [15:04:57] I am not aware of a link between Mr Demafouth and Revolution and
 23 Justice, but the point is that Revolution and Justice was a reinvention of the APRD,
 24 given that most of the commanders of Revolution and Justice were former APRD
 25 commanders.
 1 **I think it's Armel Sayo who was the head of APRD**, who also attended the Brazzaville
 2 conference in 2014.

P-0801

Example 1:

Original French real-time version T-036-FRA, page 17:

7 il y a des contacts, il y
8 a des contacts qui étaient venus, **il y a des collègues qui**
9 **étaient venus me voir pour dire que le Premier Ministre**
10 **Nzapayéké souhaite avoir le soutien des Anti-balaka**, pour rester
11 à son poste et que le Premier Ministre Nzapayéké souhaite avoir
12 aussi le soutien des... de ces... enfin des Anti-balaka et des
13 Séléka pour rester à son poste parce que son poste était
14 menacé.

Mistake in the English real-time version T-036-ENG, page 16:

13 There were contacts, contacts came, came, **colleagues came who came to see**
14 **me and said either you have the support of the Anti-Balaka in**
15 **order to remain in your position**, or you get the support,
16 the prime minister should get the support of the Anti-Balaka and
17 the Séléka ^so that can remain in his position because his
18 position was being threatened.

Example 2:

No transcript for the original French version for T-039:

The witness said he was in his car and heard at the radio.

Mistake in the English real-time version T-039-ENG, page 21:

15 During that, they said that Kokaté was the deputy general
16 coordinator. **I was walking around in my area** and there were
17 friends in Bangui who said -- who were following on the radio
18 what was being announced, that there is a new coordination for
19 the Anti-Balaka, coordinator general is Mokom is you are
20 the deputy.

Example 3:

No transcript for the original French version for T-039:

The witness said that when Ngaïssona called him, he went to his house.

Mistake in the English realtime version T-039-ENG, page 22:

21 way. When I left for Nairobi I think I said to the president,
22 when I go to Nairobi it's Mr Ngaïssona who called me **and I**
23 **followed him.**

The Yekatom Defence has raised interpretation errors with CMS in a joint meeting with LSS in the past, and has been informed that the only manner in which such issues can be raised is via the Transcript Verification Module (TVM) platform. The Yekatom Defence and the Prosecution have duly examined the transcripts of witnesses heard to date and have submitted a number of verification requests. However, this procedure is unsustainable in terms of the substantial resources that must be expended in reviewing lengthy transcripts of witnesses in English and French, within the TVM deadlines as imposed. Nor, with respect, should it be the responsibility of the Defence or the Prosecution to systematically verify the quality of interpretation and transcription.

The Yekatom Defence and the Prosecution further note that the procedure for TVM verification requests – from the submission of requests, their processing, the implementation of any corrections, to the notification of a corrected version

of a transcript – can sometimes take over one and a half months. The Yekatom Defence and the Prosecution are dependent on finalised transcript references in internal work product and as such, such delays negatively impact the efficiency of ongoing trial preparations.

More fundamentally, it is our understanding that transcripts are reviewed by CMS on the basis of the audio version of the language of the transcription. In other words, there is no verification as regards whether the original speech was correctly interpreted in the first place. Further, amending transcripts on the basis of corrections of erroneous interpretation raises a host of problems as regards the integrity of the trial record. In this respect, it does not appear that the issue of erroneous interpretation can be resolved through after the fact verification requests via the TVM platform.

The Yekatom Defence and the Prosecution appreciate that real-time interpretation is an extremely difficult process; and further, it is mindful of and sympathetic to COVID-19-related conditions under which the real-time interpreters are currently operating. Moreover, the Yekatom Defence and the Prosecution wish to emphasise that they in no way expect error-free interpretation or a perfect transcript. Yet the fact remains that interpretation errors are currently occurring at a rate that is prejudicial for the efficient proceeding of the Trial.

As such, the Yekatom Defence and the Prosecution respectfully request the urgent intervention of the Trial Chamber, the specific contours of which they will defer to the Chamber.

Kweku Vanderpuye, Senior Trial Lawyer for the Office of the Prosecution and Mylène Dimitri, Counsel for Mr Yekatom

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