

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/04-02/06
9 May 2017

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

Second order referring certain transcription and translation matters to the Registry

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
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Mr Stéphane Bourgon
Mr Christopher Gosnell

Legal Representatives of Victims

Ms Sarah Pellet
Mr Dmytro Suprun

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber VI ('Chamber') of the International Criminal Court, in the case of *The Prosecutor v. Bosco Ntaganda*, having regard to Article 64 of the Rome Statute, issues this 'Second order referring certain transcription and translation matters to the Registry'.

1. Pursuant to its 'Decision on the conduct of proceedings',¹ the Chamber rendered, between October 2016 and April 2017, a series of orders aimed at ensuring the accuracy of transcripts and translations of audio-visual material admitted during the first three evidentiary blocks.² In the course of this procedure, the Chamber received joint parties' submissions on outstanding disagreements;³ the contested portions of the relevant material were reviewed by the Language Services Section of the Registry;⁴ and the Office of the Prosecutor ('Prosecution') then implemented the Registry's observations, releasing amended versions of the transcripts and translations⁵ which, while initially marked for identification, now have the status of 'admitted' on the record.⁶
2. On 24 and 26 April 2017, having benefited from extensions of the initial deadlines set by the Chamber,⁷ the parties filed joint submissions listing outstanding disagreements on transcripts and translations marked for identification during the last five evidentiary blocks ('Joint Submissions').⁸ In their Joint Submissions,

¹ ICC-01/04-02/06-619.

² Order setting certain deadlines related to the end of the presentation of evidence by the Prosecution, ICC-01/04-02/06-1588, para. 15. A corrigendum was filed on 12 December 2016 (ICC-01/04-02/06-1588-Corr). Order referring certain translation matters to the Registry, ICC-01/04-02/06-1705, with one confidential Annex. Order concerning certain translation matters referred to the Registry, 3 April 2017, ICC-01/04-02/06-1846.

³ ICC-01/04-02/06-1705-Conf-Anx1.

⁴ Report on the "Order referring certain translation matters to the Registry", 17 March 2017, ICC-01/04-02/06-1828, with three confidential Annexes. Pursuant to an order from the Chamber Annex A was reclassified public on 3 April 2017. Report on the "Order concerning certain translation matters referred to the Registry", 10 April 2017, ICC-01/04-02/06-1856, with two confidential Annexes (notified on 10 and 12 April 2017, respectively).

⁵ Prosecution's Communication of the Disclosure of Evidence, 24 April 2017, ICC-01/04-02/06-1875, with one confidential Annex.

⁶ The Chamber observes that the admission status of the seven documents is not yet recorded in E-Court.

⁷ ICC-01/04-02/06-1588, para. 15; E-mails from the Chamber to the parties and participants on 17 March 2017 at 13:23 and 30 March 2017 at 12:01.

⁸ Joint submission by the Prosecution and the Defence on Transcripts and Translations Marked for Identification during the Fourth, Fifth, Sixth, Seventh and Eighth Evidentiary Blocks, ICC-01/04-02/06-1874 with four confidential Annexes; and Joint submission by Prosecution and Defence on the French Translations of the UPC

the parties also identify transcripts and translations for which they either (i) agree on their accuracy; or (ii) have reached an agreement on required amendments⁹ and, accordingly, jointly submit that these documents can now be admitted into evidence. Moreover, the parties bring to the Chamber's attention excerpts from four audio-visual materials for which they disagree as to whether their transcripts and translations were ever marked for identification and/or should be admitted.¹⁰

3. For the completeness of the evidentiary record, and noting the Joint Submissions in this regard, the Chamber finds it appropriate to admit into evidence the portions of the transcripts and translations initially marked for identification, and which correspond to the excerpts of audio-visual material admitted in court, where there is no remaining disagreement between the parties as to their accuracy. Accordingly, the status of the uncontested 12 transcripts and 10 translations ('Uncontested Materials')¹¹ should be updated on E-court to reflect the present ruling. Concerning the 5 transcripts and 3 translations for which the parties have reached an agreement on further amendments ('Consensus Materials'),¹² the Prosecution is directed to upload and release on E-court, by 29 May 2017, an amended version of these documents, having implemented the parties' agreement as reflected in the Joint Submissions. Upon the release of the Consensus Materials, the Registry is instructed to update the relevant E-court metadata thereafter.
4. To ensure the accuracy of the transcripts and translations of audio-visual material on the record, the Chamber finds it appropriate to refer the parties' outstanding disagreements on transcripts and translations ('Contested Materials') to the

Communication Logbooks that are Marked for Identification, 26 April 2017, ICC-01/04-02/06-1880, with one confidential Annex.

⁹ ICC-01/04-02/06-1874, paras 5 and 6.

¹⁰ ICC-01/04-02/06-1874, para. 9.

¹¹ These are listed at paragraph 5 of ICC-01/04-02/06-1874.

¹² These are listed at paragraph 6 of ICC-01/04-02/06-1874.

Language Services Section of the Registry for review. Accordingly, the Registry is hereby instructed to report to the Chamber by 19 June 2017, providing, for all contested portions, an expression or direct speech to be included in the relevant parts of the material.¹³ Upon receipt of the Registry's observations, and in line with the procedure previously adopted, the Prosecution is to implement the Registry's conclusions on the contested portions, together with any other agreement on amendments reached between the parties as reflected in the Joint Submissions. The Registry is instructed to update the E-court metadata of the final version of the Contested Materials thereafter.

5. Concerning the parties' disagreement as to the inclusion of certain editorial comments on the transcript and translation of an excerpt of video DRC-OTP-0080-0002 (that is transcript DRC-OTP-0165-0734 and translation DRC-OTP-0165-0012), the Chamber notes that its initial ruling on admission did not prevent the inclusion of any editorial comment, but merely instructed the Prosecution to redact 'the names of those persons that were not identified by the witness when he watched the videos'.¹⁴ Further observing, as noted by the Prosecution, that the editorial comments in question assist in easily referencing the transcript to the video, the Chamber finds it appropriate for them to remain in the final version of the transcript and translation admitted into evidence.
6. Turning to the excerpts brought to the Chamber's attention due to their contentious status, as opposed to accuracy, the Chamber notes that it has generally found it useful to admit, together with video excerpts *played with sound* in court, the corresponding portions of transcripts and translations. Having reviewed the specific portions of transcripts and translations in question, the

¹³ The disagreements are color-coded in orange in Annexes A to D of ICC-01/04-02/06-1874 and listed in the chart contained in Annex A to ICC-01/04-02/06-1880.

¹⁴ Transcript of hearing on 25 February 2016, ICC-01/04-02/06-T-72-CONF-ENG ET, page 30, lines 5-11.

Chamber observes that they were either already admitted in court¹⁵ or can now usefully be considered for admission, for completeness, together with the relevant corresponding audio-visual excerpts.¹⁶ Accordingly, the Chamber deems it appropriate to now admit into evidence the portions of transcripts and translations corresponding to the excerpts from the following audio-visual material identified in the Joint Submissions, where they were played in court with sound: transcript DRC-OTP-0160-0497 and translation DRC-OTP-0160-0517 (from video DRC-OTP-0116-0005), transcript DRC-OTP-0160-0538 and translation DRC-OTP-0160-0564 (from video DRC-OTP-0116-0011), and transcript DRC-OTP-0177-0129 and translation DRC-OTP-1033-0139¹⁷ (from video DRC-OTP-0155-0004-R01).

7. Finally, with a view to ensure that the scope of admission of the material hereby admitted is accurately reflected in the E-court metadata, the Prosecution shall liaise with the Defence and transmit to the Registry, by 27 June 2017, the specific references of each portion of transcripts and translations referred to in the present decision, *i.e.* page and line references corresponding to the start and end timestamps of the audio-visual excerpt admitted.

¹⁵ See ruling on admission as Defence exhibit of transcript DRC-OTP-1050-0525 and translation DRC-OTP-1050-0298 corresponding to the 11:12 - 23:54 excerpt of video DRC-OTP-0151-0665 (Transcript of hearing on 4 October 2016, ICC-01/04-02/06-T-146-CONF-ENG ET, page 16, lines 13-15).

¹⁶ See Transcript of hearing on 28 September 2016, ICC-01/04-02/06-T-142-CONF-ENG ET, pages 86-89, for excerpts 16:08 - 17:24 and 22:21 - 23:52 of video DRC-OTP-0151-0665; and pages 80 to 83, for excerpt 40:52 - 43:02 of video DRC-OTP-0155-0004-R01.

¹⁷ The related disagreement as to the accuracy of the transcript and translation of video DRC-OTP-0155-0004-R01 is also submitted to the Registry for review, in accordance with the procedure set out at paragraph 4 of the present decision.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

ADMITS INTO EVIDENCE the relevant portions of the following documents:

- Transcript DRC-OTP-0164-0583;
- Transcript DRC-OTP-0176-0011;
- Transcript DRC-OTP-0176-0045;
- Transcript DRC-OTP-0176-0280;
- Transcript DRC-OTP-0177-0015;
- Transcript DRC-OTP-0177-0032;
- Transcript DRC-OTP-0181-0236;
- Transcript DRC-OTP-0181-0375;
- Transcript DRC-OTP-0203-0236;
- Transcript DRC-OTP-0203-0270;
- Transcript DRC-OTP-1029-0796;
- Transcript DRC-OTP-1050-0715;
- Translation DRC-OTP-0176-0063;
- Translation DRC-OTP-0181-0110;
- Translation DRC-OTP-0164-0699;
- Translation DRC-OTP-0164-0728;
- Translation DRC-OTP-0176-0027;
- Translation DRC-OTP-0177-0066;
- Translation DRC-OTP-0177-0106;
- Translation DRC-OTP-0181-0069;
- Translation DRC-OTP-0206-0062;
- Translation DRC-OTP-1050-0126
- Transcript DRC-OTP-0176-0613;
- Transcript DRC-OTP-2082-0971;
- Transcript DRC-OTP-0176-0630;
- Transcript DRC-OTP-0176-0749;
- Transcript DRC-OTP-0164-0558;
- Translation DRC-OTP-0173-0530;
- Translation DRC-OTP-0176-0711;
- Translation DRC-OTP-0181-0042;
- Transcript DRC-OTP-0160-0497;
- Translation DRC-OTP-0160-0517;
- Transcript DRC-OTP-0160-0538;
- Translation DRC-OTP-0160-0564;

DIRECTS the Registry to submit its observations on all Contested Materials, as indicated at paragraph 4 of the present decision, with a view to ensuring their accuracy, and to report accordingly with concrete proposals by **19 June 2017**, being;

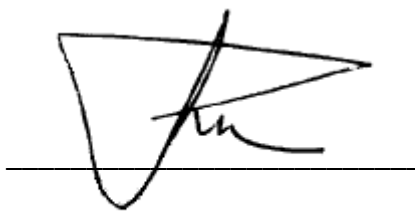
- Transcript DRC-OTP-0164-0602;
- Transcript DRC-OTP-0176-0098;
- Transcript DRC-OTP-0176-0098;
- Transcript DRC-OTP-0165-0138;
- Transcript DRC-OTP-0165-0734;
- Transcript DRC-OTP-2062-2023;
- Transcript DRC-D18-0001-2490;
- Translation DRC-OTP-0164-0750;
- Translation DRC-OTP-0176-0187;
- Translation DRC-OTP-0164-0913;
- Translation DRC-OTP-0165-0012;
- Translation DRC-OTP-2062-1333;
- Translation DRC-OTP-1047-0081;
- Translation DRC-D18-0001-2517;
- Translation DRC-OTP-0171-0926;
- Translation DRC-OTP-2055-0050;
- Transcript DRC-OTP-0177-0129; and
- Translation DRC-OTP-1033-0139;

ORDERS the Prosecution to upload and release on E-Court by **27 June 2017** amended versions of the Contested Materials, as indicated at paragraph 4 of the present decision;

ORDERS the Prosecution to liaise with the Defence and transmit to the Registry, by **27 June 2017**, the specific references of all the above-mentioned portions of transcripts and translations, as indicated at paragraph 7 of the present decision;

DIRECTS the Registry to update the E-Court metadata of all above-mentioned transcripts and translations to reflect their admitted status once the final versions have been released by the Prosecution.

Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, consisting of a large, stylized 'F' shape with a horizontal line extending to the right, positioned above a solid horizontal line.

Judge Robert Fremr, Presiding Judge

Two handwritten signatures in black ink, one on the left and one on the right, each positioned above a solid horizontal line. The left signature is in cursive, and the right signature is in Korean characters.

Judge Kuniko Ozaki

Judge Chang-ho Chung

Dated 9 May 2017

At The Hague, The Netherlands