



Original: English

No.: ICC-02/05-03/09

Date: 8 August 2011

TRIAL CHAMBER IV

Before: Judge Joyce Aluoch, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Silvia Fernández de Gurmendi

SITUATION IN THE DARFUR, SUDAN

IN THE CASE OF *THE PROSECUTOR*

v.

ABDALLAH BANDA ABAKAER NOURAIN

&

SALEH MOHAMMED JERBO JAMUS

PUBLIC DOCUMENT

Prosecution's Proposals on the Issue of Translation

Sources: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Mr. Luis Moreno-Ocampo
Ms. Fatou Bensouda
Mr. Ade Omofade

Counsel for the Defence

Mr. Karim A.A. Khan QC
Mr. Nicholas Koumjian
Mr. Ibrahim Yillah

Legal Representatives of the Victims

Mr. Brahim Koné
Ms Hélène Cissé
Mr. Akin Akinbote
Mr. Frank Adaka
Sir Geoffrey Nice QC & Mr. Rodney Dixon

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms. Silvana Arbia

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Ms. Maria Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section Other**

I. Background

1. During the status conference on 12 July 2011,¹ Trial Chamber IV ordered the parties to suggest in a joint filing by 8 August 2011, practical solutions on how to address the issue of translating statements of witnesses that the Prosecution intends to rely on into the Zaghawa language in fulfilment of the Prosecution's obligation pursuant to Rule 76 of the Rules of Procedure and Evidence ("Rules").
2. The Defence informed the Prosecution that it prefers to file its proposal separately. Accordingly, the Prosecution submits its proposal that the Chamber follow, in large measure, the processes that the Parties followed at the Pre-Trial stage.

II. Prosecution's Proposal

3. As the Prosecution informed the Trial Chamber in its filing of 14 April 2011,² there are a number of practical difficulties involved in the translation of written material into the Zaghawa language:
 - a. Zaghawa is not a written language;
 - b. The Zaghawa vocabulary is limited to no more than 5,000 words, rendering it difficult to translate certain words and concepts from languages of the Court such as English, French and Arabic into Zaghawa;
 - c. Consequently, the relevant material would first have to be transliterated and then read on to audio tapes in Zaghawa;
 - d. Other practical difficulties may also arise in translating annotations that are contained in certain witness related materials such as maps and sketches on to audio tape.
4. These practical difficulties will no doubt impact on the length of time that it would take to translate material disclosable pursuant to Rule 76 of the Rules into the Zaghawa language. Therefore, the Prosecution suggests, as it did during the status conferences on 19 April 2011³ and on 12 July 2011,⁴ that the efficiency of the proceedings would be greatly enhanced if Rule 76 is interpreted in a pragmatic and realistic manner.

¹ ICC-02/05-03/09-T-12-ENG, page 15, lines 16 to 23.

² ICC-02/05-03/09-131 at para. 10.

³ ICC-02/05-03/09-T-10-ENG, page 18 line 16 to page 20 line 7.

⁴ ICC-02/05-03/09-T-12-ENG, page 11 line 1 to page 12 line 14, page 12 line 17 to line 24.

5. The Prosecution is of the view that the procedure that was adopted at the Pre-Trial stage of this case would drastically reduce the amount of time it would take to translate the witness statements and transcripts from English into the Zaghawa language.
6. At the pre-trial stage, following a waiver by the Defence, the Prosecution produced summaries of all the 22 statements (both those that were in transcript format and those that were in the usual statement format). The Defence was provided with copies of the English summaries. These summaries were provided to the OTP translators who proceeded to read them on to audio tapes in the Zaghawa language. Both the summaries and their corresponding Zaghawa audio translations were then disclosed to the Defence pursuant to Rule 76 of the Rules.
7. This process of summarising witness statements also necessarily entailed adjusting the language that was used by the witnesses in their statement. This is because many of the complex words, terms and phrases used by the witnesses have no corresponding terms in the Zaghawa language.
8. The Prosecution suggests that the method that was adopted at the Pre-Trial stage could also be adopted at the Trial stage. In this regard, the Prosecution suggests the following approach:

Witness Statements That Were Obtained In Transcript Format

9. There are only two such statements in the Prosecution's current list of witnesses - DAR-OTP-WWWW-0307, whose transcript contains 236 pages and DAR-OTP-WWWW-0442, whose transcript contains 479 pages.
10. The Prosecution proposes that it summarise these transcripts into well-organised summaries not exceeding 35 pages. The Prosecution would provide these summaries to the Defence to enable it to compare them to the actual transcripts and suggest areas, if any, that might have been omitted from the summaries. Once the summaries have been agreed by the Parties, the OTP translators will read them on to audio tapes in the Zaghawa language. When the translations are complete, both the English summaries

⁵ For instance, the statement of Witness DAR-OTP-WWWW-0439 is 45 pages long, excluding its annexes.

and their corresponding audio translations in Zaghawa would be disclosed to the Defence pursuant to Rule 76 of the Rules.

Other Witness Statements

11. There are 13 statements in the Prosecution's current list of witnesses that fall under this category. The Prosecution observes that some of these statements are also quite lengthy.⁵
12. The Prosecution proposes that it summarises these statements also into well-organised summaries not exceeding 15 pages. The same process would then be followed: the Prosecution would provide the summaries to the Defence to enable it to compare them to the actual statements and suggest areas, if any, that might have been omitted from the summaries. Once these summaries have been agreed by the Parties, the OTP translators will read them on to audio tapes in the Zaghawa language. When the translations are complete, both the English summaries and their corresponding audio translations in Zaghawa would be disclosed to the Defence in pursuant to Rule 76.

Annexes to Transcripts and Statements

13. Many of the annexes are in the form of sketches drawn by the witnesses, or are photographs. The Prosecution proposes that the Defence identifies which of the annexes it requires to be translated, and the Prosecution will provide translations in the Zaghawa language in the same manner described above.

Document Containing the Charges, Pre-Trial Brief and List of Evidence

14. The Prosecution notes that the Document Containing the Charges, the Pre-Trial Brief and the List of Evidence do not fall under Rule 76. It is acknowledged, however, that in other cases before the Court, the Prosecution has also disclosed these documents to the Defence in languages which the Accused persons speak and understand.
15. The Prosecution proposes that the Defence identifies the relevant parts of each of these documents, if any, that it would like to be translated into the Zaghawa language. The Prosecution will then compile these parts into a well-organised, readable format and provide it to the OTP translators to be read on to audio tapes in the Zaghawa language, and upon completion disclose them to the Defence.

16. The Prosecution informs the Trial Chamber that should the proposals relating to transcripts and witness statements described in this filing be agreeable, it can provide the first batch of summaries to the Defence by 12 August 2011.

A handwritten signature in blue ink, appearing to read 'Luis Moreno-Ocampo', is positioned above a horizontal line.

Luis Moreno – Ocampo
Prosecutor

Dated this 8th day of August 2011
At The Hague, The Netherlands