

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: **ICC-02/05-03/09**
Date: **1 September 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 update to the Trial Chamber on language related issues and further information on re-interviews of two Prosecution witnesses

Sources: Office of the Prosecutor

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

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Introduction

Further to the recent decision of the Trial Chamber IV (“Trial Chamber”) to immediately commence the translation of the witness statements intended for use by the Office of the Prosecutor (“OTP” or “Prosecution”) at the trial into Zaghawa, the Prosecution provides herein an update to the Chamber on certain issues related to the translation and a projected timeframe within which they are likely to be completed. The Prosecution also provides the Trial Chamber with an update on the outstanding re-interviews with two of its witnesses.

Background

1. In their filings of 8 August 2011, the Prosecution¹ and Defence² made proposals to the Trial Chamber on the issue of translating the witness statements the Prosecution intends to rely upon at trial, as well as other material, into Zaghawa prior to their disclosure to the Defence. In its decision of 16 August 2011 (“16 August Decision”), the Trial Chamber instructed the Prosecution to immediately commence translating the witness statements into Zaghawa.³

I. Update on language related issues

2. The Prosecution informs the Trial Chamber that **two** Zaghawa translators are scheduled to commence work with the OTP, on a contractual basis, on 5 September 2011. In addition to these two translators:

- (a) One individual has declined to work with the OTP due to the perceived inadequacy of the pay;
- (b) One individual has been excluded for security reasons;
- (c) One individual has been unreachable to the date of this filing; and
- (d) One individual is awaiting security clearance before the OTP can contact him.

3. The Prosecution expects that either (c) or (d), or both, will also be available to take up duties.

¹ ICC-02/05-03/09-192

² ICC-02/05-03/09-195

³ ICC-02/05-03/09-199

4. Since the OTP started recruiting Zaghawa speakers over five years ago, it has not found any other Zaghawa speakers beyond the six persons identified above, who are deemed sufficiently competent, have not failed a security vetting process, and are presently available. Since the use of Zaghawa translators is currently limited to the *Banda and Jerbo* case, and the duties required of them is limited in nature, it is prudent to retain them on a contractual basis and to call them in to work only as and when it is certain that their services are required.

5. Based on the Prosecution's current list of witnesses,⁴ the Prosecution estimates a page count of 511 pages (351 pages of narrative statements and approximately 160 pages of summaries produced from the previously obtained interview transcripts, as well as those obtained in the course of the re-interviews of Witnesses DAR-OTP-WWWW-442 and DAR-OTP-WWWW-307).⁵ Assuming that **three** qualified Zaghawa translators will be available – the two with whom the OTP has already contracted and at least one of the two possibly available translators -- the translation of this material will require a period of approximately **five** working months (excluding annual leave, etc.) from the date these persons can commence.⁶

6. As soon as any translated statements are ready, the Prosecution will disclose them to the Defence on a rolling basis pursuant to Rule 76 of the Rules of Procedure and Evidence

II. Update on the re-interviews of two Prosecution witnesses

7. On 12 July 2011, the Prosecution informed the Trial Chamber of its intention to re-interview two of the Prosecution witnesses (Witnesses DAR-OTP-WWWW-442 and DAR-OTP-WWWW-307) that it proposes to rely on at the trial.⁷

8. As regards Witness DAR-OTP-WWWW-442, the Prosecution indicated that the re-interview of this witness was scheduled to take place at the end of August 2011 due to

⁴ ICC-02/05-03/09-189, Anx 1.

⁵ The Prosecution notes that the Trial Chamber did not address the issue of translating transcribed interviews into Zaghawa in the 16 August Decision, but this extrapolation is based on an assumption that only summarised versions of the transcripts would need to be translated.

⁶ This timeframe does not currently include any time that it might take to translate other material into Zaghawa, such as the Document Containing the Charges or the List of Evidence.

⁷ ICC-02/05-03/09-T-12-ENG ET, page 5 lines 5-12.

certain difficulties involving the availability of the witness. Following the last status conference however, the Prosecution was able to re-interview this witness between 9 and 12 August 2011. The audiotapes of this re-interview are currently being transcribed and the estimated date of completion is between 16 and 19 September 2011. Once the transcripts are ready, the Prosecution will submit them to the Trial Chamber with proposed redactions, disclose redacted versions to the Defence following the Trial Chamber's decision, and prepare summaries thereof for their translation into Zaghawa.

9. Conversely, as regards the re-interview of Witness DAR-OTP-WWWW-307, the Prosecution encountered logistical difficulties and was therefore unable to conduct the re-interview of this witness in the second week of August 2011, as scheduled. The re-interview will now take place between 12 and 17 September 2011. As with the re-interview of Witness DAR-OTP-WWWW-442, the audiotapes of Witness DAR-OTP-WWWW-307's re-interview will be submitted for transcription immediately and the transcripts are expected to be ready approximately three weeks thereafter. Once the transcripts are ready, the Prosecution will submit them also to the Trial Chamber with proposed redactions, disclose them to the Defence following the Trial Chamber's decision, and prepare summaries thereof for their translation into Zaghawa.



Luis Moreno – Ocampo
Prosecutor

Dated this 1st day of September 2011
At The Hague, The Netherlands