

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/10

Date: 30 March 2011

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Sylvia Steiner
Judge Sanji Mmasenono Monageng

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

***IN THE CASE OF
THE PROSECUTOR V. CALLIXTE MBARUSHIMANA***

Public Document

Decision on issues relating to disclosure

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

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
 Ms Fatou Bensouda, Deputy Prosecutor
 Mr Anton Steynberg, Senior Trial Lawyer

Counsel for the Defence

Mr Nicholas Kaufman

Legal Representatives of Victims

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**

Mr Xavier-Jean Keita

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section**

Other

In the case of *The Prosecutor v. Callixte Mbarushimana*, Pre-Trial Chamber I of the International Criminal Court (“Chamber” and “Court” respectively), Judge Cuno Tarfusser partly dissenting, renders the following decision.

1. On 7 February 2011, the Single Judge issued the “Decision Scheduling a Hearing on Issues relating to Disclosure between the Parties”,¹ whereby a public hearing (“Status Conference”) was scheduled for 14 February 2011 to be attended by the Prosecutor, the Defence Counsel (“Defence”) for Mr Callixte Mbarushimana (“Mr Mbarushimana”) and the Registrar, with a view to addressing matters regarding the disclosure for the purposes of the confirmation hearing in the present case, which is due to begin on 4 July 2011. The Status Conference was held on the scheduled date.

2. The purpose of the present decision is to establish (i) the system governing disclosure for the purpose of the confirmation hearing in the present case, and (ii) the time-frame for disclosure.

Submissions by the parties and participants

3. At the Status Conference, the Prosecutor expressed preference for the disclosure system adopted by the Chamber in the cases of *The Prosecutor v. Bahar Idriss Abu Garda*² (“Abu Garda case”) and *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*³ (“Abdallah Banda and Saleh Jerbo case”),⁴ indicating, however, that he should not be required to summarise evidence and indicate the relevance of each item disclosed pursuant to article

¹ ICC-01/04-01/10-52.

² ICC-02/05-02/09.

³ ICC-02/05-03/09.

⁴ ICC-01/04-01/10-T-2-ENG (“Transcript”), p. 8, lines 1-10.

67(2) of the Rome Statute ("Statute") and rule 77 of the Rules of Procedure and Evidence ("Rules").⁵ The Prosecutor urged the Chamber to follow the ruling of the majority, consisting of Judges Sylvia Steiner and Sanji Mmasenono Monageng, in the Abu Garda case, according to which potentially exculpatory evidence and material that is subject to inspection pursuant to rule 77 of the Rules should not be communicated to the Chamber or otherwise filed in the record of the case unless one of the parties intends to rely on it at the confirmation hearing.⁶ The Prosecutor further requested that, if the Chamber decides to deviate from that practice and to require the communication to the Chamber of such material, translation into a working language of the Court, pursuant to regulation 39 of the Regulations of the Court ("Regulations"), would not be required.⁷

4. The Prosecutor proposed to commence disclosure by giving the Defence access to a broad pool of evidence initially under rule 77 of the Rules and, in due course, re-disclosing this material as incriminating or potentially exculpatory evidence.⁸ The Prosecutor further submitted that the latest e-Court Protocol should be provided by the Registry or by the e-Court User Group for adoption in the present case.⁹

5. The Defence stated that it favoured the disclosure system adopted in the Abu Garda case, indicating, however, that it supported Judge Tarfusser's dissenting opinion that all exculpatory evidence identified by the Prosecution should be communicated to the Chamber.¹⁰ The Defence further requested the

⁵ Transcript, p. 9, lines 10-15.

⁶ Transcript, p. 8, lines 1-10.

⁷ Transcript, p. 8, lines 20-24.

⁸ Transcript, p. 11, lines 14-19.

⁹ Transcript, p. 13, lines 22-24.

¹⁰ Transcript, p. 17, lines 10-19.

Chamber to order the Prosecutor to ensure the translation of intercepted communications and to make them available to the Chamber well in advance of the confirmation hearing.¹¹ In response, the Prosecutor requested the Chamber not to depart from the current practice of the Court and submitted that if additional translations are made for the Prosecution's own purposes, they would be provided to the Defence.¹²

6. The Defence further submitted that the Prosecutor should review all evidence obtained in the situation in the Democratic Republic of the Congo ("DRC") on the condition of confidentiality pursuant to article 54(3)(e) of the Statute, with a view to giving the Defence access to such evidence under rule 77 of the Rules and article 67(2) of the Statute,¹³ and that the Prosecutor should be given a short time limit for disclosure of any material arising therefrom pertinent to the parameters of the jurisdictional challenge the Defence intends to make.¹⁴

7. The Defence suggested that, in addition to the existing metadata fields, additional metadata regarding the chain of custody and the relevance of every piece of evidence should be provided.¹⁵ With respect to the e-Court Protocol, the Defence submitted that it had no objections to the e-Court Protocol appended to the decision on disclosure in the Abu Garda case.¹⁶

¹¹ Transcript, p. 18, lines 12-16.

¹² Transcript, p. 27, lines 2-5.

¹³ Transcript, p. 15, lines 16-20.

¹⁴ Transcript, p. 17, lines 1-4.

¹⁵ Transcript, p. 19, lines 1-15.

¹⁶ Transcript, p. 18, lines 23-24.

8. The Registry submitted that the current e-Court Protocol would be provided for review by the e-Court User Group.¹⁷

System governing disclosure

9. The Chamber recalls its “Second Decision on issues relating to Disclosure” in the Abu Garda case (“Decision on Disclosure in the Abu Garda case”),¹⁸ whereby the Majority established (Judge Cuno Tarfusser partly dissenting) the following principles:

- a. disclosure is to be conducted *inter partes*, between the Prosecutor and the Defence;¹⁹
- b. the duty of communication to the Pre-Trial Chamber of “[a]ll evidence disclosed between the Prosecutor and the person for the purposes of the confirmation hearing” pursuant to rule 121(2)(c) of the Rules is aimed at placing the Pre-Trial Chamber in a position to properly organize and conduct the confirmation hearing. Such duty of communication requires the filing of the evidence to be presented at the confirmation hearing in the record of the case;²⁰
- c. based on the limited scope and purpose of the confirmation hearing, those materials subject to disclosure on which the parties do not intend to rely at the confirmation hearing (including materials of potentially exculpatory nature or otherwise material for the preparation of the Defence that the Prosecutor must disclose to the Defence or permit

¹⁷ Transcript, p. 24, lines 1-6.

¹⁸ ICC-02/05-02/09-35.

¹⁹ Decision on Disclosure in the Abu Garda case, para. 8.

²⁰ *Ibid.*, para. 8.

their inspection in accordance with article 67(1)(b) and (2) of the Statute and rule 77 of the Rules) need not be communicated to the Chamber;²¹

d. as a record of the *inter partes* exchanges, following any act of disclosure of materials under article 67(2) of the Statute, the Prosecutor is requested to file in the record of the case a disclosure note ("Disclosure Note"), signed by both parties and containing a list of the items subject to disclosure and their reference numbers;²²

e. similarly, with respect to material under rule 77 of the Rules, the Prosecutor is requested to file in the record of the case a pre-inspection report ("Pre-Inspection Report"), containing a list of the items made available to the Defence together with their reference numbers. Following any act of inspection of the originals of the documents identified by the Defence, the Prosecutor is requested to file in the record of the case an inspection report ("Inspection Report"), signed by both parties, which must include a list of the items inspected, their reference numbers, a brief account of how the act of inspection took place and whether the Defence received the copies which it requested during the inspection.²³

The Chamber, Judge Tarfusser partially dissenting, will apply the aforementioned principles to the present case.

10. As mentioned above, the partly dissenting opinion to the Decision on Disclosure in the Abu Garda case²⁴ departed from the Majority's decision to order the parties to communicate to the Chamber only the evidence that they

²¹ *Ibid.*, para. 9.

²² *Ibid.*, para. 14.

²³ *Ibid.*, para. 11.

intend to present at the confirmation hearing, as opposed to “all evidence disclosed between the Prosecutor and the person for the purposes of the confirmation hearing”. The reasons for that dissent still stand and are hereby recalled and reiterated in their entirety, in particular the view that also material of a purportedly exculpatory nature falls within the scope of the parties’ duty of communication to the Chamber. However, since the views of the Majority likewise stand, disclosure in the present case will be governed by the same principles and rules as those adopted in the Abu Garda case.

11. The Chamber notes that, in support of his request not to be required to summarise and indicate the relevance of each item disclosed and/or made available to the Defence, the Prosecutor contends that this was not required in other cases and yet the disclosure system in those cases was considered “fair and efficient” or to have “operated successfully.”²⁵ In this regard, the Chamber recalls that the imposition of this obligation on the Prosecutor in the Abu Garda case was meant to “further improve the current system in order to facilitate the Defence’s assessment of the potentially exculpatory evidence disclosed or subject to inspection” and “enable the Chamber to better perform its role under rule 121(2)(b) of the Rules to ‘ensure that disclosure takes place under satisfactory conditions’”.²⁶ The Chamber accordingly required the following in the Abu Garda case:

- a. in order to facilitate the Defence’s analysis of the material disclosed under article 67(2) of the Statute, the Prosecutor shall include in the Disclosure Note, together with the list of the items disclosed and their reference numbers: (i) a concise summary of the content of each item;

²⁴ *Ibid.*, Partly Dissenting Opinion of Judge Cuno Tarfusser, p. 21.

²⁵ Transcript, p. 9, lines 10-17.

²⁶ Decision on Disclosure in the Abu Garda case, para. 13. *See also* paras 14-16.

and (ii) an explanation of the relevance of such item as potentially exculpatory;²⁷

b. in order to facilitate the Defence's identification of the items which it wishes to inspect physically, pursuant to rule 77 of the Rules, the Prosecutor shall include in the Pre-Inspection Report, with respect to those items which are material to the preparation of the defence, together with the list of the items that were made available to the Defence and their reference numbers: (i) a concise summary of the content of such items; and (ii) an explanation of the relevance of such items for the preparation of the defence.²⁸

The Chamber sees no reason to depart from these requirements.

12. The Chamber further recalls that the disclosure process between the parties shall be facilitated through the Registry. In this respect, when submitting any evidence on which they intend to rely at the confirmation hearing, the parties shall comply with the e-Court Protocol adopted in the case against Abdallah Banda and Saleh Jerbo, as subsequently amended and attached to this decision.

13. As regards the Defence's request regarding additional metadata, including the chain of custody,²⁹ the Chamber notes that pursuant to the present decision, the Prosecutor will be required to provide a concise summary and explanation of the relevance of each item disclosed under article 67(2) of the Statute and rule 77 of the Rules.³⁰ In addition, in relation to the incriminating

²⁷ *Ibid.*, para. 15.

²⁸ *Ibid.*, para. 16.

²⁹ *See supra*, para. 7.

³⁰ *See supra* para. 11.

evidence on which the Prosecutor intends to rely at the confirmation hearing, the Prosecutor will be ordered to ensure that the detailed description of the charges ("Document Containing the Charges") together with the list of the aforementioned evidence ("List of Evidence") which he shall provide pursuant to rule 121(3) of the Rules, are organised in such a manner that: (i) each item of evidence is linked to the factual statement it intends to prove; and (ii) each factual statement is linked to a specific element of crime, a mode of liability, or both. The Chamber finds this information sufficient for the purposes of the preparation of the defence of Mr Mbarushimana and sees no need for the provision of the additional metadata requested by the Defence.

14. As regards information about the chain of custody, the Chamber is of the view that there is no need for the Prosecutor to include such information with respect to each piece of evidence disclosed or made available to the Defence. However, the Prosecutor shall provide such information if and when the Defence (i) makes a request for such information with respect to one or more specific documents and materials disclosed or made available to it by the Prosecutor and (ii) fully demonstrates the relevance of the information sought. In case of a dispute between the Parties on these matters, the Chamber will decide.

Other matters raised by the Parties at the Status Conference

15. Further, during the Status Conference, the Defence requested the Chamber to find that the telephone log referred to in the Prosecutor's application for a warrant of arrest ("Application")³¹ is subject to the Chamber's

³¹ "Prosecution's Application under Article 58", 20 August 2010, ICC-01/04-01/10-11-Red2.

“Decision on the Defence Request for Disclosure”³² and to order the Prosecutor to disclose all information attesting to the legality of the means by which that log was produced. The Chamber notes that the telephone log was listed as one of the categories of evidence primarily relied upon by the Prosecutor in his Application.³³ However, the log was not annexed to that Application. The warrant of arrest was thus not based on this telephone log. It follows that the telephone log cannot be subject of the said decision. The Chamber takes note of the Defence’s statement that the said telephone log was disclosed by the Prosecutor as incriminating evidence.³⁴ The Chamber is therefore of the view that, if the Prosecutor intends to rely on this telephone log for the purposes of the confirmation of charges hearing, the Defence is entitled to receive the sought information and/or documents which are essential for the preparation of an application challenging the legality of the said log, in so far as this information and/or documents are in the possession or under the control of the Prosecutor.

16. As regards the Defence’s request for the translation of all intercepted communications,³⁵ the Chamber is of the view that since, consistent with the above conclusion of the Chamber, the material on which the parties do not intend to rely on at the confirmation hearing does not need to be filed in the record of the case, the language requirement set out in regulation 39 of the Regulations does not apply to such material. Consequently, the Prosecutor is not obliged to provide the translation of this material to the Defence, unless he intends to rely on any of those intercepted communications for the purposes of the confirmation hearing.

³² ICC-01/04-01/10-47, 27 January 2011.

³³ Application, para. 29(e).

³⁴ Transcript, p. 21, line 14.

³⁵ See *supra*, para. 5.

17. Finally, the Chamber notes that at the Status Conference the Prosecutor stated that he had provided access to the Defence to over 1,700 intercepted communications and over 4,000 associated files, and that he expected to disclose in due course more of these communications, as well as a collection of FDLR (*Forces démocratiques de libération du Rwanda*) press releases.³⁶ As such items were disclosed prior to the Chamber's decision on the system of disclosure, the Chamber directs the Prosecutor to ensure that such items were disclosed in compliance with the present decision. In case of any deficiencies, the Prosecutor shall re-disclose the said items in accordance with the principles set out in the present decision.

Time-frame for disclosure

18. According to rule 121(3) of the Rules, the Prosecutor shall provide to the Pre-Trial Chamber and the person in respect of whom a warrant of arrest or a summons to appear has been issued, no later than 30 days before the date of the confirmation hearing, the Document Containing the Charges together with the List of Evidence. According to rule 121(6) of the Rules, the Defence shall file a list of the evidence that it intends to present at the confirmation hearing ("Defence List of Evidence"), if any, no later than 15 days before the confirmation hearing.

19. These provisions need to be read in light of regulation 33 of the Regulations of the Court. Consistently with rules 121(3) and 121(6) of the Rules, the Prosecutor shall provide the Document Containing the Charges and the List of Evidence no later than 1 June 2011, while the Defence's List of Evidence, if any, shall be provided no later than 16 June 2011. The Chamber notes that

³⁶ Transcript, p. 9, lines 22-25 and p. 10, line 1.

pursuant to rule 121(5) of the Rules, if the Prosecutor intends to present new evidence at the hearing, he has to provide the Chamber and the Defence with a list of that evidence no later than 15 days before the date of the hearing.

20. In accordance with rule 121(8) of the Rules, charges and evidence presented after these dates shall not be taken into consideration by the Chamber. The Chamber points out that the imposition of such deadlines is justified by the need to ensure the expeditiousness of proceedings, and by the fundamental right of the suspect “to be informed promptly and in detail of the nature, cause and content of the charge in a language which [he] fully understands and speaks” (article 67(1)(a) of the Statute). The Chamber also takes note of rule 76(1) of the Rules, which requires that the defence be provided with the names of the prosecution witnesses and copies of their statements “sufficiently in advance to enable the adequate preparation of the defence”. Similarly, rule 76(2) of the Rules requires the Prosecutor to “subsequently advise the defence of the names of any additional prosecution witnesses and provide copies of their statements when the decision is made to call those witnesses”. Furthermore, the Chamber takes due account of the paramount principle that any and all material, including material covered by article 67(2) of the Statute, shall be disclosed as soon as practicable.

21. The Chamber further recalls its “Decision on the Defence Request for Disclosure”,³⁷ whereby the Chamber deferred its decision on the issue of disclosure of other “exculpatory and/or materially relevant information necessary for the pursuit of challenges under Article 19(2)(a) of the Rome Statute and Rule 117(3)”, in so far as this information may be understood as being “material to the preparation of the defence”, within the meaning of rule

77 of the Rules. The Chamber recalls that an effective exercise of the right to make a challenge to the admissibility of the case or the jurisdiction of the Court requires that the Defence has access to relevant documents.³⁸ The Chamber is of the view that when complying with his disclosure obligations, the Prosecutor shall give priority to materials relating to jurisdiction and admissibility. The Prosecutor shall make such materials available to the Defence as soon as practicable and no later than 13 April 2011. If the Prosecutor intends to request any redaction to the said materials, the Chamber directs him to make such requests as soon as practicable and no later than 5 April 2011.

FOR THESE REASONS, the Chamber, Judge Tarfusser partly dissenting,

DECIDES that disclosure for the purpose of the confirmation hearing in the present case before the Chamber shall be governed by the system established in the Abu Garda case, as reiterated in this decision;

ORDERS the parties, when submitting any evidence on which they intend to rely at the confirmation hearing, to comply with the appropriate metadata in accordance with the e-Court Protocol annexed to the present decision;

ORDERS the parties submitting the evidence on which they intend to rely at the confirmation hearing to simultaneously file with the Registry:

- i. the originals of all evidence for which no redactions pursuant to rule 81 of the Rules are needed, which, at this stage, shall be filed as confidential;

³⁷ 27 January 2011, ICC-01/04-01/10-47, para. 19.

³⁸ *Ibid*, para. 13.

- ii. the originals of the evidence for which redactions pursuant to rule 81 of the Rules have been authorised, which shall be filed as *ex parte*;
- iii. a copy of the authorised redacted version of the evidence, if any, which, at this stage, shall be filed as confidential; and
- iv. an electronic copy of the original or of the redacted version, if any or, in case of tangible objects, their electronic photographs including the details required in the e-Court Protocol annexed to the present decision;

ORDERS that, when disclosing evidence under article 67(2) of the Statute, the Prosecutor shall provide the Defence with a Disclosure Note, which should be signed by both parties and filed in the record of the case. The Disclosure Notes shall contain:

- i. a list of the material disclosed and its reference number;
- ii. a concise summary of the content of each item; and
- iii. an explanation of the relevance of such item as potentially exculpatory;

ORDERS the Prosecutor to permit, pursuant to rule 77 of the Rules, the Defence to inspect, starting as soon as practicable and no later than 13 April 2011, at a location, time and manner agreed by the parties, any books, documents, photographs and other tangible objects in its possession or control, which are material to the preparation of the defence and relate to jurisdiction and admissibility;

ORDERS the Prosecutor to permit, pursuant to rule 77 of the Rules, the Defence to inspect, starting as soon as practicable and no later than 2 May 2011, at a location, time and manner agreed by the parties, any remaining books, documents, photographs and other tangible objects in its possession or control which are material to the preparation of the defence, or intended for use by the Prosecutor as evidence for the purposes of the confirmation hearing, or were obtained from or belonged to the person;

ORDERS the Prosecutor to file in the record of the case Pre-Inspection Reports containing a list of the items made available to the Defence and their reference numbers; and, in relation to those items which are material to the preparation of the defence, to further include in the Pre-Inspection Reports:

- (i) a concise summary of the content of such items; and
- (ii) an explanation of the relevance of such items for the preparation of the defence;

ORDERS the Prosecutor to provide the Defence, at its request during inspection, with electronic copies or electronic photographs, in the case of tangible objects, of all evidence or material subject to inspection;

ORDERS the Prosecutor, following any act of inspection, to file in the record of the case an Inspection Report signed by both parties and including:

- (i) a list of the items inspected and their reference numbers; and
- (ii) a brief account of how the act of inspection took place and whether the Defence received the copies which it requested during the inspection;

ORDERS the Prosecutor to file by 4 April 2011 a report on the existence of any materials protected under articles 54(3)(e), 73 and 93 of the Statute that have been identified as being of potentially exculpatory nature under article 67(2) of the Statute or which are material to the preparation of the defence pursuant to rule 77 of the Rules, including those materials that could be relevant to a challenge to jurisdiction and/or admissibility;

ORDERS the Prosecutor:

- (i) to disclose to the Defence, as soon as practicable, any material subject to disclosure which does not need to be redacted;
- (ii) to submit to the Chamber, as soon as practicable and no later than 5 April 2011, any request for redactions under rule 81 of the Rules with respect to material relating to jurisdiction and admissibility;
- (iii) to submit to the Chamber, as soon as practicable and no later than 18 April 2011, any request for redactions under rule 81 of the Rules with respect to other materials; and
- (iv) to make *ex parte* applications for protective measures other than redactions as expeditiously as possible and bearing in mind the date set for the confirmation hearing;

FURTHER ORDERS the Prosecutor, pursuant to rule 76 of the Rules, to disclose to the Defence, as soon as practicable and no later than 23 May 2011, or, when redactions are requested, no later than 5 days after the Chamber's decision regarding such redactions, in original and in a language Mr Mbarushimana fully understands and speaks, the names and the statements of

the witnesses – with authorized redactions pursuant to rule 81 of the Rules, if any – on which he intends to rely at the confirmation of charges hearing, regardless of whether the Prosecution intends to call them to testify;

ORDERS the Prosecutor to file in the record of the case by 1 June 2011 the Document Containing the Charges and the List of Evidence in the case of *The Prosecutor v. Callixte Mbarushimana* in a language which Mr Mbarushimana fully understands and speaks. In so doing, the Prosecutor shall further ensure that this is organised in such a manner that:

- (i) each item of evidence is linked to the factual statement it intends to prove; and
- (ii) each factual statement is linked to a specific element of crime, a mode of liability, or both;

ORDERS the Defence:

- (i) pursuant to rule 78 of the Rules, to permit, as soon as practicable and no later than 14 June 2011, the Prosecutor to inspect any books, documents, photographs and other tangible objects in its possession or control which are intended for use for the purposes of the confirmation hearing at a location and time and in a manner agreed by the parties;
- (ii) to provide to the Prosecutor, at his request during inspection, electronic copies or electronic photographs, in the case of tangible objects, of all evidence or material subject to inspection;

ORDERS the Defence in the event it intends to raise the existence of an alibi or to raise a ground for excluding criminal responsibility, pursuant to rule 79 of the Rules, to notify the Prosecutor no later than 14 June 2011;

ORDERS the Defence:

- (i) to submit no later than 13 May 2011 any request for redactions under rule 81 of the Rules;
- (ii) to make *ex parte* applications for protective measures other than redactions as expeditiously as possible and bearing in mind the date set for the confirmation hearing;

ORDERS the Defence to file in the record of the case no later than 16 June 2011 the Defence List of Evidence, if any, to be presented at the confirmation hearing;

ORDERS the Prosecutor to provide the Defence with information and/or documents which are essential for the preparation of an application challenging the legality of the telephone log referred to in paragraph 29(e) of the Application, if the Prosecutor intends to rely on the said log for the purposes of the confirmation of charges hearing;

ORDERS the Registry to make all necessary arrangements to provide the Defence with access to and training in the software necessary to facilitate:

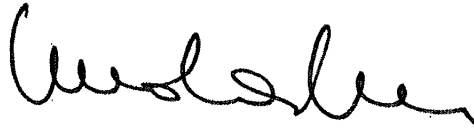
- i. the *inter partes* exchanges between the Prosecutor and the Defence;
- ii. the filing in the record of the case of the evidence to be presented at the confirmation hearing in accordance with the e-Court Protocol annexed to the present decision; and

- iii. access to the evidence filed by the parties on the record of the case;

ORDERS the Registry to make all necessary arrangements to provide Mr Mbarushimana with access to and training in the use of the software necessary to facilitate his access from the detention centre to the evidence disclosed or made available by the parties; and

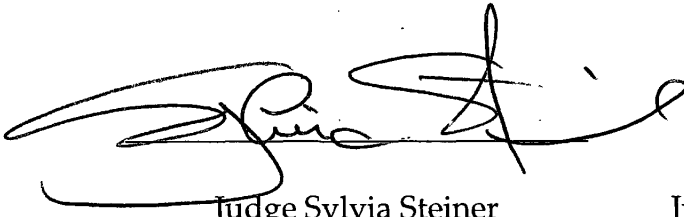
REJECTS the Defence's request for translations of all intercepted communications unless the Prosecutor intends to rely on them, and for additional metadata.

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

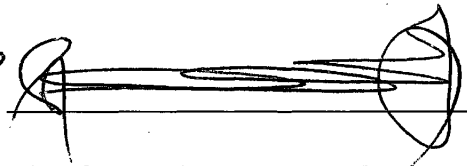


Judge Cuno Tarfusser

Presiding Judge



Judge Sylvia Steiner



Judge Sanji Mmasenono Monageng

Dated this Wednesday, 30 March 2011

At The Hague, The Netherlands