

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 08 April 2011

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO

IN THE CASE OF

THE PROSECUTOR v. Callixte Mbarushimana

Confidential

With a confidential and *ex parte* Annex 1 *ex parte* Defence and Registry only

Registry Report

Source: Registrar

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

The Office of the Prosecutor

Luis Moreno Ocampo

Fatou Bensouda

Counsel for the Defence

Nicholas Kaufman

Registrar

Silvana Arbia

Deputy Registrar

Didier Preira

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

The Registrar of the International Criminal Court;

NOTING the *"Update on the Inventory and Unsealing of Items Seized at the Time of the Arrest of Callixte Mbarushimana in France"* dated 11 February 2011¹;

NOTING the *"Decision on the Prosecution's request for a review of Potentially privileged material"* issued by Pre-Trial Chamber I (the "Chamber") on 4 March 2011² whereby the Chamber, *inter alia*, ordered the Registry to conduct a search of part of the material seized at the premises of Mr Callixte Mbarushimana ("seized material") with the use of the keywords provided by the Defence and the Prosecutor and approved by the Chamber;

NOTING the *"Prosecution submission of keywords and list of potentially privileged materials"* dated 9 of March 2011³;

NOTING the *"Defence Submission of 'Keywords' and list of Potentially Privileged Materials"* dated 9 March 2011⁴;

NOTING the *"Defence submission of properly motivated keywords"* dated 17 March 2011⁵;

NOTING the *"Request for extension of time with respect to the Chamber's decision of 4 March 2011"* dated 9 March 2011⁶;

¹ ICC-01/04-01/10-53-Conf.

² ICC-01/04-01/10-67.

³ ICC-01/04-01/10-71.

⁴ ICC-01/04-01/10-72.

⁵ ICC-01/04-01/10-81.

NOTING the *“Decision on the Registry’s request for extension of time and on other matters regarding the review of potentially privileged material”* dated 16 March 2011⁷;

NOTING the *“Decision on the keywords provided by the Defence for the purpose of selection of potentially privileged material”* dated 30 March 2011⁸ (the “Decision”);

NOTING articles 87 and 93(1)(h) of the Rome Statute;

CONSIDERING that in the Decision, the Chamber instructed the Registry to provide the Chamber by 8 April 2011:

- a list of documents obtained through the search until 8 April 2011, and
- A report on the progress including an estimate of how much more time is required to complete the task.

SUBMITS the following information with regards to applying keyword searches to hard drive material.

1- List of documents obtained through the search until 8 April 2011

To date, and with the current facilities, the Registry has performed the keyword search on the basis of the Defence keyword list as finalized in the Decision, on one hard drive. On this specific hard drive, a total of 22,808 files included hits on one or more keywords. Details of the results are attached in Annex 1.

⁶ ICC-01/04-01/10-70.

⁷ ICC-01/04-01/10-80

⁸ ICC-01/04-01/10-88

On this specific hard drive already the keyword search using OTP list has to be performed. This is estimated to be finalized by Monday 11 April COB.

2- Report on the progress including an estimate of how much more time is required to complete the task

a) Keyword searching

The Registry estimates that the keyword searching of all accessible hard drives can be finalized by 21st April 2011. As a result the total number of files including one or more keywords will be known. For ease of reference, the term "selected files" is used hereinafter.

b) Review of the selected files

Once the first step is finalized, namely to list all selected files, the next step consists in opening each file and further filtering the files, in line with the Chamber's instructions as set out in the Decision's Annex.

The Registry at this stage is unable to provide a reliable time estimate, pending actual performance of the review of the files by its staff.

c) Copying material for defence's or OTP's use

Should the Chamber so require, the Registry would be in a position to procure the defence with a copy of all the non-faulty and unprotected devices by Monday 11 April COB.

Preparing copies of the selected files only, for the defence, takes an inordinate amount of time. Hence, the Registry would recommend against this option. As an alternative, we suggest that together with the copy of all the non-faulty and unprotected devices, we provide the defence with a list of the selected files.

Preparing copies of the files other than the selected files, for provision to the OTP would similarly take an inordinate amount of time.

SUBMITS further, as to other aspects of the projects, as follows.

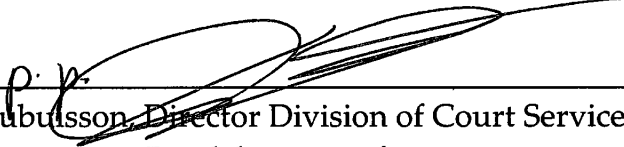
In its first update to the Chamber made on the 11 February 2011, the Registry stated that it will acquire special equipment in order to perform examination, copy and data extraction of the seized materials. Part of the seized materials required specialized data extraction and DNA and fingerprint analysis. This has to be performed by an external forensic institution.

Purchase of Equipment

The Registry has initiated the construction of a specialized evidence processing area and the acquisition of necessary equipment.

Data Extraction and DNA and Fingerprint Analysis on part of the Seized Material:

In order to expedite the process the Registry selected the Netherlands Forensic Institute (the "NFI") as the institution which will proceed with the data extraction, fingerprints and DNA analysis of a part of the seized materials. On the 4 March 2011 the Registry received a proposal from the NFI as to how it would proceed with its analysis. After a technical evaluation of the proposal, it has been decided to proceed further. The relevant NFI representatives have been contacted and a delivery of the relevant part of seized material is scheduled for the 13 April 2011.



Marc Dubuisson, Director Division of Court Services
Per delegation of
Silvana Arbia, Registrar

Dated this 08 April 2011

At The Hague, Netherlands