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

Date: **15 April 2011**

PRE-TRIAL CHAMBER I

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

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF
THE PROSECUTOR v. Callixte MBARUSHIMANA

Public Document

Prosecution's request for extension of time limit for redaction applications

Source: Office of the Prosecutor

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

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I. Introduction

1. On 30 March 2011 Pre-Trial Chamber I (“the Chamber”) ordered the Prosecution to file by 18 April 2011 any requests for redactions pursuant to Rule 81 of the Rules of Procedure and Evidence (“Rules”) it intends to make to materials other than those relating to jurisdiction and admissibility.¹
2. The Prosecution will apply by 18 April 2011 for authorisation to redact the written statements of five crime-base witnesses, as well as the records of audio-recorded interviews with three² demobilised FDLR combatants.
3. Pursuant to Regulation 35(2) of the Regulations of the Court, the Prosecution seeks an extension of the time limit for filing applications for redactions of the records of audio-recorded interviews with the remaining demobilised FDLR combatants whose statements it plans to disclose. The Prosecution requests an extension until 4 May 2011 to file applications for redactions of the records of interviews with five witnesses, as well as of the re-interviews with two other witnesses whose initial statements will be submitted by 18 April. It seeks an extension until 16 May for applications relating to a further five witnesses.³

¹ Decision on issues relating to disclosure, ICC-01/04-01/10-87, 30 March 2011, p. 17, para (iii).

² The interviews with these three witnesses were conducted in English and Kinyarwanda. For the purposes of its redaction application, the Prosecution will provide the Chamber with full English-Kinyarwanda transcripts of interviews with two of the three witnesses, as well as with the English transcripts of the interview with the third witness. Should the Chamber approve the proposed redactions to the English portions of the interviews, the Prosecution will apply the redactions to the corresponding Kinyarwanda portions and, if so required, submit those Kinyarwanda portions for the Chamber’s information as soon as they are available (see paragraph 5 below).

³ These interviews were also conducted in English and Kinyarwanda. By 4 and 16 May, the Prosecution intends to apply for redactions on the basis of English transcripts of interviews. Should the Chamber approve the proposed redactions to the English portions of the interviews, the Prosecution will apply the redactions to the corresponding Kinyarwanda portions and, if so required, submit those Kinyarwanda portions for the Chamber’s information as soon as they are available (see paragraph 5 below).

II. Submissions

4. The Prosecution is preparing to disclose to the Suspect a much larger number of audio-recorded witness interviews than has been disclosed in any other case at the pre-confirmation stage.⁴ The resources available to the Prosecution in-house have been insufficient to transcribe these recorded interviews, the total duration of which exceeds 250 hours. The transcription of much of these materials has therefore been outsourced.
5. Once received by the Office, the transcripts must go through a process of quality control by Prosecution investigative staff familiar with the witnesses' evidence, as well as by Prosecution language staff. The quality control of the transcripts of Kinyarwanda portions of the interviews completed to date has revealed deficiencies in the quality of the transcription,⁵ which has delayed the completion of those portions of the transcripts. The Prosecution expects, nonetheless, to have transcripts of the Kinyarwanda portions of the interviews ready by the disclosure deadline.
6. The quality of the transcription of the English portions of the interviews has been satisfactory but, given the large volume of materials, the transcripts of the interviews with 10 witnesses and of re-interviews with two others will not be ready by the 18 April deadline. The Prosecution will thus be unable to review

⁴ In the *Abu Garda* case the Prosecution applied for authorisation to redact the transcripts of only three audio-recorded interviews and in the *Banda and Jerbo* case it disclosed the transcript of the interview with only one witness. In the *Katanga and Ngudjolo* case, it disclosed the transcripts of the interview with only three witnesses during the pre-trial phase, which amounted to less than 900 pages. In the *Bemba* case, it disclosed the transcripts of the interviews with two witnesses only, which amounted to just over 1,000 pages. In *Lubanga*, the transcripts of interviews with 12 witnesses amounting to less than 1,000 pages were disclosed with redactions in the pre-confirmation stage of the case, without a deadline for application for redactions being set by the Pre-Trial Chamber. In contrast, the Prosecution expects the transcripts of interviews to be disclosed prior to the confirmation hearing in the *Mbarushimana* case to amount to about 5,000 pages.

⁵ The Prosecution is presently addressing the quality of the Kinyarwanda portions by quality-controlling the transcripts of a second external service provider.

these materials for redactions and apply to the Chamber by the 18 April deadline set by the Chamber in its 30 March decision.⁶

7. Based on its knowledge of these witnesses' evidence, the Prosecution expects that it will need to seek only minor redactions, to wit to the identifying information of the witnesses' relatives and innocent third parties and to Prosecution sources mentioned during the interviews. The transcripts are nevertheless necessary for the Prosecution to conduct a proper review in advance of redaction applications.
8. The Prosecution submits that the large volume of recordings to be transcribed taken together with the short, two-and-a-half week deadline set by the Chamber, constitute good cause to extend the time limit until 4 May and 16 May. An extension until 4 May and 16 May would not prejudice the rights of the Suspect to fair and expeditious proceedings, given that the Prosecution foresees that the redactions it will submit to the Chamber for its approval will be minimal and that all relevant transcripts will be available by the disclosure deadline.
9. The Prosecution is interviewing further witnesses in the course of its ongoing investigations. It may thus be necessary seek a further extension of the deadline for applications for redactions to newly collected evidence for the Chamber's consideration in due course.

III. Relief sought

10. The Prosecution seeks an extension until 4 May and 16 May 2011 of the time limit for the filing of applications for authorisation of redactions to materials other than those relating to jurisdiction and admissibility, in order to finalise the

⁶ The Prosecution notes that it appears to have been given a shorter deadline by which to file its redaction applications than in other cases, and in particular than in the *Abu Garda*, in which this Chamber gave the Prosecution over six weeks to file its redaction applications. See Second Decision on issues relating to Disclosure, 17 July 2009, ICC-02/05-02/09-35, p. 17, para (ii). In contrast, in the present case, the Chamber gave the Prosecution two-and-a-half weeks within which to file redaction applications. See ICC-01/04-01/10-87, p. 17, para (iii).

transcription and review for redactions of the records of the audio-recorded interviews with ten witnesses as well as of the re-interviews with two other witnesses.



Luis Moreno-Ocampo
Prosecutor

Dated this 15th day of April 2011
At The Hague, The Netherlands