

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 15 April 2011

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng

SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO

**IN THE CASE OF
*THE PROSECUTOR v. Callixte Mbarushimana***

Public Document with Confidential Annex

Further Submission on the Processing of Part of the Seized Materials

Source: Registrar

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

The Office of the Prosecutor

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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.

⁶ ICC-01/04-01/10-70.

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 the *“Registry Report”* dated 08 April 2011⁹;

NOTING the *“Addendum to Registry Report”* dated 11 April 2011¹⁰;

NOTING articles 87 and 93(1)(h) of the Rome Statute and regulations 23 bis and 24 bis (1) of the Regulations of the Court;

CONSIDERING that the Annex 1 to this submission contains full names of staff members of the Court, the annex is submitted as confidential;

CONSIDERING that in an email communication¹¹ dated 12 April 2011, the Defense Counsel requested a clarification as to the paragraphs 2(a) and 2(c) of the Registry Report¹²;

SUBMITS the following information with regards to the state of some of the Seized material:

⁷ ICC-01/04-01/10-80.

⁸ ICC-01/04-01/10-88.

⁹ ICC-01/04-01/10-95-Conf.

¹⁰ ICC-01/04-01/10-98-Conf.

¹¹ See Annex 1.

¹² ICC-01/04-01-10-09, page 5, paragraphs 2(a) and 2(c).

State of a part of Seized material consisting of storage devices

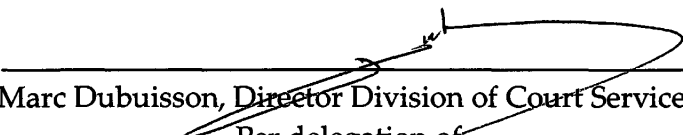
Mr Callixte Mbarushimana is an IT administrator. A part of the Seized material consists of 42 electronic devices with high storage space. These two facts combined, gave rise to a preliminary assessment that some of the seized devices may originate from customer computers. Given this context, there is an increased chance that the devices could be faulty and awaiting reparation.

After an initial forensic acquisition performed by the Registry, it has been assessed that 7 devices were faulty. These devices could not be acquired with the toolset in the possession of the Registry. In addition to the seven faulty devices, three other devices could not be acquired due to their inherent security restrictions. Prior to processing, these devices would have to be decrypted.

The Registry followed all reasonable care while handling Seized material, including faulty and secured devices.

Current activities performed in relation to the faulty and secured storage devices

In order to process the faulty and secured storage devices the Registry is in the process of acquiring specialized hardware. In the meantime and in order to speed up the process, the Registry intends to request assistance from the Netherlands Forensic Institute.



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

Dated this 15 April 2011

At The Hague, The Netherlands