

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 21 April 2011

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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

Public Document

Registry Report on the eCourt Protocol

Source: Registry

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

The Office of the Prosecutor

Luis Moreno Ocampo, Prosecutor

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Registrar

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**Victims Participation and Reparations
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Other

Charlotte Dahuron, Chief CMS

Ian Blacker, Chief ICTS

Esteban Peralta, Chief CSS

The **REGISTRAR** of the International Criminal Court;

NOTING the "*Decision on issues relating to Disclosure*"¹ issued on 30 March 2011;

NOTING the "*Prosecution request to amend the e-Court Protocol*"² ("Application") filed on 14 April 2011;

NOTING the "*Decision on the 'Prosecution request to amend the eCourt Protocol'*"³ ("Decision") issued on the 15 April 2011;

NOTING that in its Decision the Chamber ordered the Registry, with the assistance of the e-Court user Group, to file a report ("Report") containing recommendations to the issues raised in the Prosecution's Application;

NOTING Regulation 26(1) of the Regulations of the Court;

CONSIDERING that the eCourt User Group met twice on the 19th of April 2011 in order to discuss amendments to the current eCourt protocol;

¹ ICC-01/04-01/10-87 and its annex.

² ICC-01/04-01/10-100.

³ ICC-01/04-01/10-104.

SUBMITS the following:

The reasons for the amendments suggested are twofold:

1. Type of the materials/items which will be potentially disclosed. The application of the current protocol could lead to loss of important information contained in the originals of electronic items.
2. Volume of the material relevant to the case. The amount of electronic items collected or seized and potentially relevant to the case is very large. By way of example, the Registry estimates that in the “Lubanga” and “Katanga & Ngudjolo” cases not more than 5,000 documents have been disclosed respectively. In the current case there are hundreds of thousands of electronic items collected. Their processing in accordance with the current protocol would be an extremely lengthy process and substantially delay the proceedings.

The eCourt User Group (the “User group”) met with the aim to submit an amended eCourt protocol (“Suggested protocol”) addressing the two issues mentioned above. the User group managed to draft this Suggested protocol mindful of its advantages and disadvantages described hereinafter.

Advantages of the Suggested protocol:

1. A large amount of important information stored in the electronic items (creation, modification dates, original file names, formulas in spreadsheets etc.) would be preserved;
2. The processing of the large amount of collected electronic items would be automated and thus more efficient (less costly, considerably faster, consumes less storage space on the network infrastructure of the Court).

This would ultimately accelerate the disclosure process and the actual proceedings in general;

3. The searching capabilities of the parties in terms of accuracy would increase as they would be performed in the native format of the electronic items;
4. The disclosed electronic items would be identical to the originals as no conversion process is required.

Disadvantages of the Suggested protocol:

1. While analyzing the disclosed materials in their own Ringtail instances, the parties would lose some functionalities of the system such as annotations, redaction and highlighting, on pages of the documents. This will affect only the disclosure of the electronic items. The ability for the parties to analyse and manage evidence would be limited. However, for any material that is intended for presentation during hearings, where the use of tiff images would remain mandatory, the functionalities remain.
2. When electronic items are documents, the individual pages would no longer be marked with ERN numbers. This will render the referencing more difficult. Furthermore, selecting a specific page in a large document would not be possible. Instead the parties would have to "scroll" to a specific page. Again, this would not apply for items intended for presentation during the hearings.
3. Calculating the amount of pages for disclosed (not aimed at presentation) electronic items would not be automated. Hence, the provision of accurate disclosure statistics would be labour intensive.
4. The technical services of the Registry will have to acquire and install a specific software necessary for the viewing of different types of electronic items. Furthermore, the parties willing to present some of the disclosed material during the hearings, will have to convert the original electronic items into a format compatible with the evidence presentation software

used by the Court. This would impose additional technical and resource burden on both the parties to the proceedings and the relevant services of the Registry. Nevertheless, in the current circumstances, the Suggested protocol remains the most viable alternative.

Handling of translations of documents and redacted versions of the documents

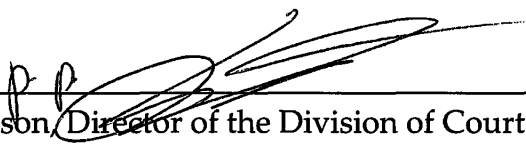
In the Suggested protocol it is proposed to amend the current protocol in relation to the numbering of the translations of both originals and redacted documents. These would be assigned individual ERN numbers. They would be linked to the originals through a "host/attachment" relationship. In this manner cumbersome numbering schemes can be avoided.

Divergent opinions as to the scope of paragraph 27:

The scope of application of paragraph 27 has been a point of disagreement between the representatives of the Office of the Prosecutor and the Defense representatives in the User group. The Office of the Prosecutor suggests that only metadata which can be extracted from the automatic processing of the electronic items can be provided. The view of the representatives of the Defense is that all of the metadata as listed in the suggested protocol should be provided (if the information exists) similarly to the metadata provided against non-electronic evidence. This would imply a manual data entry of compulsory metadata fields by the disclosing party. Further guidance from the Chamber is sought in this matter.

Finally, it is respectfully submitted that in view of potential technical challenges ahead, it should be possible for the parties and the participants to request amendments to the Suggested protocol.

SUBMITS the Suggested protocol as annex 1 to this report.



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

Dated this 21 April 2011

At The Hague, The Netherlands