

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 12 May 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***

Public Document

**Registry Report on technical problems encountered by Mr Mbarushimana on the
computer installed in his detention cell**

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
Fatou Bensouda, Deputy Prosecutor

Counsel for the Defence
Nicholas Kaufman, Counsel

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants
(Participation/Reparation)

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence
Xavier Jean Keita, Principal Counsel

States' Representatives

Amicus Curiae

REGISTRY

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 in which the Chamber orders the Registry to provide a progress report on the search performed on seized material using the approved keywords;

NOTING the *“Registry Report”* dated 8 April 2011⁹;

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

NOTING the *“Further Submission on the Processing of Part of the Seized Materials”* dated 15 April 2011¹¹;

NOTING the *“Second Decision on matters regarding the review of potentially privileged material”* issued on 15 April 2011¹²;

NOTING the *“Registry Report on the Keyword Searches Performed on a Part of Seized Materials”* dated 21 April 2011¹³;

⁷ ICC-01/04-01/10-80.

⁸ ICC-01/04-01/10-88.

⁹ ICC-01/04-01/10-95 and its annex.

¹⁰ ICC-01/04-01/10-98 and its annexes.

¹¹ ICC-01/04-01/10-109 and its annex.

¹² ICC-01/04-01/10-105.

¹³ ICC-01/04-01/10-119 and its annex.

NOTING the *“Defence implementation of the second decision on matters regarding the review of potentially privileged material”* dated 01 May 2011¹⁴;

NOTING the *“Decision on the Defence Requests concerning the implementation of the Chamber’s “Second Decision on matters regarding the review of potentially privileged material”* issued on the 2 May 2011¹⁵;

NOTING the *“Defence submission of a list of potentially privileged material”* (the *“Defense submission”*) filed on 6 May 2011¹⁶;

NOTING the *“order to the Registry to submit a report concerning the Defence submission of a list of potentially privileged material”* issued on 11 May 2011¹⁷ ordering the Registry *“to make observations on the action taken to address the problems encountered in relation to the hardware and software supplied to Mar Mbarushimana, and, accordingly, submit a report containing its observations no later than Thursday, 12 May 2011, at 1600 hours”*;

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

¹⁴ ICC-01/04-01/10-127.

¹⁵ ICC-01/04-01/10-129.

¹⁶ ICC-01/04-01/10-137 and its annexes.

¹⁷ ICC-01/04-01/10-143.

SUBMITS the following report:

The relevant hardware and software have been installed in Mr Mbarushimana's cell on 4 May 2011. The installation was followed by training for Mr Mbarushimana on the software used for keyword searches.

As stated in the Defense submission, several technical problems occurred on Mr Mbarushimana's Computer. All of the problems mentioned have either been resolved or are being investigated as follows:

a) *Inability to access "Microsoft Office 2010":*

The software was installed on 6 May 2011 afternoon.

b) *Absence of the necessary software on Mr Mbarushimana's computer required to read email files:*

The software was installed on 11 May 2011 in the morning.

c) *Absence of the necessary software required to open and review audio or video files:*

The technical services of the Registry are researching for the appropriate software. As soon as the software is identified and acquired it will be installed on Mr Mbarushimana's computer.

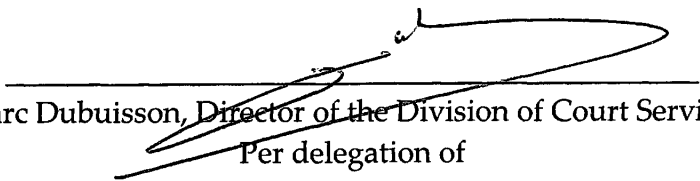
d) *Absence of a printer and a USB port on the computer provided to Mr Mbarushimana:*

Due to security regulations in place, access to the USB port of the computer is not allowed. However, a Registry staff member has been appointed to collect the relevant data from Mr Mbarushimana's computer and provide it to the Defense twice a week. The latter agreed with this approach.

e) *Problems relating to the import of materials from the hard drive collection with the use of the FTK software:*

The problem was solved this afternoon. Mr Mbarushimana is now able to access the relevant hard drive.

RECOMMENDS that all further review of files identified as potentially privileged by Mr Mbarushimana and the Defense, be performed by those authorised on the equipment which is currently placed in the Court Management Section "forensic lab". The computers in the "forensic lab" already contain the specific software needed for the review of the files and the access to this area is secured. This allows for a more cost efficient, timely and secure review of potentially privileged materials.



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

Dated this 12 May 2011

At The Hague, The Netherlands