

**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, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

***IN THE CASE OF
THE PROSECUTOR V. CALLIXTE MBARUSHIMANA***

Public

Decision on the "Prosecution request to amend the e-Court Protocol"

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
 Ms Fatou Bensouda, Deputy Prosecutor
 Mr Anton Steynberg, Senior Trial Lawyer

Counsel for the Defence

Mr Nicholas Kaufman
 Ms Yael Vias-Gvirsman

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
 Participation/Reparation**

**The Office of Public Counsel for
 Victims**

**The Office of Public Counsel for the
 Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section Others**

I, Judge Sanji Mmasenono Monageng, the Single Judge of Pre-Trial Chamber I of the International Criminal Court (“Chamber” and “Court” respectively) responsible for carrying out the functions of the Chamber in relation to the case of *The Prosecutor v. Callixte Mbarushimana*;¹

NOTING the “Decision on issues relating to Disclosure” (“Decision”)² issued by the Chamber on 30 March 2011 whereby the Chamber *inter alia* ordered the parties to comply with the e-Court Protocol adopted in the case of *The Prosecutor v. Abdhalla Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, as subsequently amended and attached to the Decision;

NOTING the “Prosecution request to amend the e-Court Protocol” (“Prosecution Request”)³ filed on 14 April 2011, whereby the Prosecutor requests (i) an amendment of the e-Court Protocol “to include provisions specifically dealing with original electronic evidence relating to this case” and (ii) “amendments or corrections to the portions of the Protocol which address the specific measures required for translated documents;”⁴

NOTING regulation 26 of the Regulations of the Court and regulations 10 and 26 of the Regulations of the Registry,

CONSIDERING the Prosecutor’s submission that the current Protocol cannot efficiently apply to electronic evidence and may cause valuable information in the electronic files to be lost;

¹ Oral Decision of the Chamber, 28 January 2011, ICC-01/04-01/10-T-1-ENG, p. 11.

² ICC-01/04-01/10-87 and its annex.

³ ICC-01/04-01/10-100.

⁴ *Ibid.*, paras 3 and 4.

CONSIDERING that the Prosecutor accordingly requests special measures to be applied to electronic evidence;

CONSIDERING that the Prosecutor also contends that, in relation to translated documents or translations of redacted versions of documents, the current e-Court Protocol:

- (i) to the extent that it requires an ERN number that is consistent with the original file “represents a change to the protocol that cannot be implemented for a single case alone, as it impacts on the internal processes of registering translations for all cases”⁵ and “becomes problematic when the translated document has more pages than the original;”⁶ and
- (ii) is unclear as far as the “interrelationship of paragraphs 23, 24 and 25” is concerned;

CONSIDERING that the Court is using an electronic system to support its daily judicial and operational management and its proceedings and that in this respect, the Registry is responsible for the implementation of this electronic system;

CONSIDERING that for the purposes of efficiency, the Registry has created an e-Court User Group in September 2010 which is composed of representatives of all Organs of the Court and which activity includes making recommendations on e-Court issues;

⁵ Prosecution’s Application, para.16.

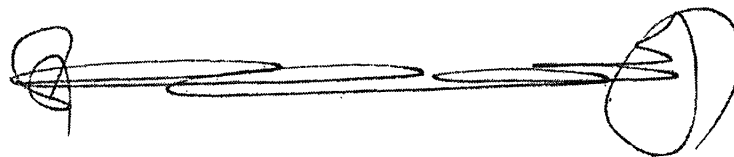
⁶ *Ibid.*

CONSIDERING therefore that before deciding on the merits of the Prosecution's Application and in order to ensure uniformity across the different cases, it is appropriate to seek the prior views of the Registry, after consultation with the e-Court User group, on the different issues raised therein;

FOR THESE REASONS,

ORDER the Registry, with the assistance of the e-Court User group, to file, no later than Thursday 21 April 2011, a report containing recommendations on the issues raised in the Prosecution's Application.

Done in English and French, the English version being authoritative.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above the printed name of the judge.

Judge Sanji Mmasenono Monageng

Single judge

Dated this Friday 15 April 2011

At The Hague, The Netherlands