

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/06

Date: 23 August 2011

TRIAL CHAMBER I

Before: Judge Adrian Fulford, Presiding Judge
Judge René Blattmann
Judge Elizabeth Odio Benito

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. THOMAS LUBANGA DYILO***

Confidential

Ex parte only available to the Registry and the Defence

Observations of the Registrar pursuant to Regulation 24 *bis* of the Regulations of the Court on the "Requête de la Défense sollicitant le réexamen de la décision du Greffe du 22 juillet 2011 relative à l'aide judiciaire accordée à M. Thomas Lubanga" dated 19 August 2011

Source: The Registry

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

The Office of the Prosecutor

Counsel for the Defence

Ms. Catherine Mabilie

Mr. Jean-Marie Biju-Duval

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**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms. Silvana Arbia

Counsel Support Section

Mr. Esteban Peralta Losilla

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

THE REGISTRAR OF THE INTERNATIONAL CRIMINAL COURT ("the Registrar"),

CONSIDERING the "Requête de la Défense sollicitant le réexamen de la décision du Greffe du 22 juillet 2011 relative à l'aide judiciaire accordée à M. Thomas Lubanga" ("the Request")¹,

RESPECTFULLY SUBMITS THE FOLLOWING OBSERVATIONS in response to the Request:

1. In the proper discharge of her functions, the Registrar respectfully submits that it is imperative that the within observations are duly taken into account prior to a ruling in response to the Request.
2. In the respectful submissions of the Registrar, the Request not only contains misreading and/or partial and selective representation of the material facts, authoritative documents and relevant legal texts applicable, but equally constitutes a direct assault on the legal aid system of the Court as a whole as established and approved by the Assembly of States Parties ("ASP"). The Request further poses significant financial, reputational and organizational risk before the ASP and the public at large should it elicit a judicial ruling in favour of its demands – demands, which, as will be demonstrated below, are both mislaid and unreasonable.
3. The Registrar further submits that, in the management and application of the Court's legal aid system in this case, at all material times, her decisions were taken within her jurisdiction², with full respect for due process and propriety of established procedures, in conformity with the applicable legal texts of the Court and based on pertinent facts present, leading to reasonable and

¹ ICC-01/04-01/06-2790-Conf-Exp.

² Similar to the jurisprudence rendered by the *ad hoc* tribunals, the Chambers and the Presidency of the ICC have confirmed that it is "the Registrar in whom primary responsibility for managing the legal assistance scheme of the Court is vested, including overseeing the scheme of legal assistance by the Court [...]": see *e.g.* The Presidency, *Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06-937, 29 June 2007 at para. 16.

concretely founded administrative decisions on the legal aid benefits awarded in favour of the accused, Thomas Lubanga Dyilo³.

4. By way of an overview, the present observations will address the relevant points of the Request, presenting the context in which the letter of the Chief of the Counsel Support Section ("CSS") dated 22 July 2011⁴ (the "Letter") was addressed to counsel for the Defence in conformity with the legal aid system of the Court. The within observations will further address apparent misconstructions, which are present in the Request regarding, in particular, the legal nature of the documents which form the basis of the legal aid system of the Court; the principles upon which the latter is based; the phases defined for the purposes of its application, and some of the consequences of these misconstructions related to the composition of teams. Reference will also be made to the tasks proposed by the Defence for the period between the closing statements and the delivery of the Trial judgment in accordance with Article 74 of the Statute.

Failure of Counsel for the Defence to meet with CSS

5. The Request contains allegations that "[v]erbalement et par écrit, le Conseil principal a sollicité à de nombreuses reprises depuis juin 2011, sans succès, la tenue d'une rencontre avec le signataire de la lettre [...] afin de discuter des sujets traités dans cette lettre"⁵. [underline is ours]

³ Guided by established jurisprudence at the *ad hoc* tribunals, the Presidency of the Court has established a clear test to be applied in all cases where a request for review of an administrative decision of the Registrar is sought. The Presidency has articulated the test as follows: "It is recalled that the judicial review of decisions of the Registrar concerns the propriety of the procedure by which the latter reached a particular decision and the outcome of that decision. It involves a consideration of whether the Registrar has: acted without jurisdiction, committed an error of law, failed to act with procedural fairness, acted in a disproportionate manner, taken into account irrelevant factors, failed to take into account relevant factors, or reached a conclusion which no sensible person who has properly applied his or her mind to the issue could have reached.": See decision of the Presidency of the Court, dated 20 December 2005, ICC-Pres-RoC72-02-5 at para. 16, and supplemented in its decision of 27 November 2006, ICC-01/04-01/06-731-Conf, at para. 24. See also the decision of 10 July 2008, Case/filing no. ICC-Pres-RoC72-01-8-10 at para. 20.

⁴ ICC-01/04-01/06-2790-Conf-Exp-Anx1.

⁵ Footnote 1 of the Request.

6. At the onset of July 2011, the case-manager for the Defence contacted the administrative assistant of CSS to request a meeting with the Chief of the Section. When asked about the purpose of the meeting, it was mentioned that it concerned legal aid matters, in response to which, the case-manager was informed that a first meeting can be arranged with the Acting Head of the Legal Aid Unit (a sub-branch of CSS, with primary responsibility to manage the Court's legal aid system). This same invitation was repeated by the Section Chief himself when replying, upon his return from leave on 15 August 2011, to an e-mail message sent by Mr. Lubanga's counsel on 26 July 2011. It bears noting that counsel received an automatic "out-of-office" reply informing her of the Section Chief's absence and the contact details of the staff in charge of the Section in his absence who can be contacted in case urgent assistance was required.
7. Further, despite repeated invitations by the Section, the Defence never contacted the Acting Head of the Legal Aid Unit to discuss the letter of 22 July 2011 or any related matter, either before or after the reception of the Letter.
8. Similarly, on 16 August 2011, counsel for the Defence was contacted in order to schedule a meeting with the Chief of CSS to discuss the Letter in question. Counsel for the Defence declined the invitation for the meeting and opted to meet with the Registrar directly on 17 August 2011.
9. The Registrar finds it regrettable that the counsel of record failed to meet with CSS, while afforded ample time and express invitations to do so. Against this background, the Registrar finds it unfortunate to find the Request replete with partial facts in this regard, which leaves room for unfounded negative inferences to be drawn against the Registry.

Observations on the Letter and the Court's legal aid system in general

10. Contrary to the assertion of the Defence, the Letter does not add a new decision to the legal aid regime applicable to all cases before the Court, but simply entails the application to the present case of the texts and policies

which regulate the Court's legal aid system, namely Annex 2 ("Payment details of the ICC legal aid scheme") to the *Report to the Assembly of States Parties on options for ensuring adequate defence counsel for accused persons*⁶ ("the First Legal Aid Report") and the *Report on the operation of the Court's legal aid system and proposals for its amendment*⁷ ("the Adjustments").

11. The First Legal Aid Report established a division in payment structure based on three phases, the first two (Pre-Trial and Trial) divided in sub-phases. It is relevant for the purposes of the present observations to reiterate that the sub-phases of the Trial phase are: (1) first status conference before the Trial Chamber to commencement of trial, (2) commencement of trial to closing arguments, and finally (3) closing arguments to the delivery of decision(s).
12. The Adjustments did not introduce any amendment "to the times when the counsel will act alone", including "[t]he period between the closing arguments and the judgment".⁸ This document, incidentally, is not "un rapport de type administratif, qui ne constitue que des 'orientations générales pour l'administration de la Cour' données par l'Assemblée des États parties au Greffier (Article 112-2-b et c) ""⁹, but a document prepared by the Court and endorsed by the ASP.
13. These two documents, the second being – as its very name indicates – an amendment to the first, form the basis upon which the legal aid system operates, including the preparation of the budget for the approval of the ASP and its implementation by the Registry.
14. The Registrar respectfully submits that there was no further amendment to the legal aid system to date. The *Report on different legal aid mechanisms before*

⁶ ICC-ASP/3/16.

⁷ ICC-ASP/6/4.

⁸ Paragraph 29 of the Adjustments.

⁹ Paragraph 14 of the Request.

*international criminal jurisdictions*¹⁰ did not amend the legal aid system, but merely constitutes a report on its implementation by the Court.

15. It is the position of the Registrar that any resources which might be allocated to legal teams beyond what is expressly contemplated in the legal aid system as established in the First Legal Aid Report and amended by the Adjustments, must make the object of a request for additional resources in conformity with Regulation 83 of the RoC. The Registry has no legal capacity whatsoever to obligate any financial resources for this purpose in the absence of such a request.
16. At the Court, as with any other international criminal jurisdiction and most domestic legal systems, legal aid is not an automatic *ad infinitum* entitlement. There are established procedures, rules, regulations and limits, which define and govern how legal aid is claimed, assessed, and when warranted, granted within the scope and confines set by the applicable legal and policy provisions which apply to that given legal aid system.
17. The legal aid regime at the Court, as endorsed by the ASP and clearly established by the legal and policy texts of the Court, is no different¹¹. The legal and policy canons governing the Court's legal aid system permit legal assistance to be paid by the Court to cover only those costs that "are reasonably necessary as determined by the Registrar for an effective and efficient defence".¹² In the context of the present Request, the extra resources

¹⁰ ICC-ASP/7/23.

¹¹ See in particular Article 67.1.d of the Rome Statute; Chapter 4, Section 4 of the Regulations of the Court and Chapter 4, Section 3 of the Regulations of the Registry. For principal documents outlining the Court's legal aid system see: *Report to the Assembly of States Parties on options for ensuring adequate defence counsel for accused persons* (ICC-ASP/3/16) dated 17 August 2004; *Report on the principles and criteria for the determination of indigence for the purposes of legal aid (pursuant to paragraph 116 of the Report of the Committee on Budget and Finance of 13 August 2004)* (ICC-ASP/6/INF.1) dated 31 May 2007; *Report on the operation of the Court's legal aid system and proposals for its amendment* (ICC-ASP/6/4) dated 31 May 2007; *Report to the Assembly of States Parties on options for ensuring adequate defence counsel for accused persons* (ICC-ASP/3/16) *Update to Annex 2: Payment details of the ICC legal aid scheme* (ICC-ASP/5/INF/1.) dated 31 October 2006, and *Interim report on different legal aid mechanisms before international criminal jurisdictions* (ICC-ASP/7/23), dated 31 October 2008.

¹² Regulation 83.1 of the Regulations of the Court.

requested by counsel for the period in question – that is, from the conclusion of the closing arguments to the decision of the learned Trial Chamber on the guilt or innocence of the accused – are above and beyond the resources foreseen for this interim period under the Court's legal aid system, and in any event, on the bare facts simply not necessary for an effective and efficient defence.

18. The obligation of judiciously managing the funds allocated to the Court by the ASP for the purposes of legal aid is not incompatible with the commitment of the Registrar, in line with the applicable texts and, in particular, with Article 67 (1) (b) and (d) of the Rome Statute, Rule 20 (1) (b) and (c) and (2) of the Rules of the Procedure and Evidence and Regulation 83 (1) of the RoC, to ensure that all defendants implicated in the proceedings before the Court can receive the appropriate legal assistance and legal aid resources. The Registry, in practise, has demonstrated – unequivocally – it is not only willing, but that it has not faltered in granting resources to defence teams when justified and reasonably necessary in conformity with the applicable legal texts and rules governing the Court's legal aid system. In the present case alone, to date, the Registrar has rendered no less than four decisions granting additional resources to the defence team of the accused, Thomas Lubanga Dyilo, amounting to a total of 441,161.35 Euros.¹³ The Registry has also maintained the team at full throttle during the long suspensions of the case¹⁴ in instances where the legal aid system of the Court allowed for such continuity.

19. The Registrar respectfully submits that the Request is simply unfounded to merit the resources it seeks.

¹³ This total includes 159,482.35 Euros added to the team's investigations budget as well as the cost of an additional legal assistant granted by the Registrar's decision of 14 June 2009; it is noted that this post was expressly granted "jusqu'aux plaidoiries finales".

¹⁴ The proceedings were stayed twice, one during five months in 2008 and another, lasting three months, in 2010.

On the composition proposed by counsel and compensation professional charges

Team composition

20. In paragraph 32 of the Request, counsel proposes to keep “pour les phases subséquentes de la procédure [...] les postes de Conseil principal, de Conseil associé et de deux assistants légaux”.

21. Counsel's proposal in this regard violates:

- Concrete and well established components of the legal aid system, including the team composition permissible under the scheme, and
- the express terms of the appointment of the additional legal assistant granted to the team, whose mandate and its termination at the end of the “closing arguments” were clearly stipulated in the letter of appointment (Annex A) in conformity with the Court's legal aid system and the decision of the Registrar granting additional resources to the team.¹⁵

22. The resources allocated by the Court's legal aid system for the different phases of the proceedings are laid out in the table annexed to the present observations (Annex B)¹⁶. More specifically, between the closing arguments and the delivery of the Trial Chamber's judgment, the human resources permissible under the Court's legal aid system are limited to the counsel of record. During a potential Appeals Phase, counsel would be joined by a legal assistant and a case-manager. The composition of the team in the interim period between closing arguments and judgment, as well as the Appeals Phase as envisaged by the Court's legal aid system is correlated and adjusted in response to the reduced amount of work that is required of the defence team as compared to the trial phase.

¹⁵ ICC-01/04-01/06-927.

¹⁶ Annex C presents the same information included in Annex IV of the Adjustments (row entitled “proposed system”), simplified for the convenience of the Chamber.

23. The Registry stresses that the legal aid system of the Court, as approved by the ASP, was conceived after extensive periods of consultation with experts and relevant stake-holders, including representatives of the legal profession, defence counsel as well as national and international legal associations and legal aid services.
24. The Court's legal aid system has gauged the interim period between closing arguments to the judgment to be a period where a whole team structure cannot reasonably be maintained both from a judicious resource management perspective, but equally importantly due to the reduced workload on the team during that same period. Counsel of record is maintained during this interim period in conformity with the Court's legal aid scheme.
25. In opposition, the Defence takes the position that during the interim period, the existing team, with the exception of the case-manager, must be maintained as is, in violation of the Court's legal aid system and against any solid foundation or justifiable grounds in support of such a demand. The Defence, in its Request, is in essence seeking the Chamber to sanction the following resources to be deducted on a monthly basis against the publically funded legal aid system of the Court during the interim period in question, when the workload of the proceedings do not reasonably justify the resources sought:

Monthly fees and compensation for professional charges	Euros
Counsel fees	10,832.00
Counsel comp. professional charges	3,791.20
Associate counsel fees	8,965.00
Associate counsel comp. professional charges	3,137.75
1 st Legal Assistant fees	6,113.00
2 nd Legal Assistant provided by virtue of a decision of the Registrar granting additional resources fees	6,113.00
Total per month	38,951.95

Compensation for professional charges

26. The Request seeks the continuation of payment of compensation for professional charges for counsel and associate counsel during the interim period between the closing arguments and judgment.
27. Under the Court's legal aid system, team members who, at the time of their intervention before the Court, are managing a professional office on an individual basis or in partnership and as a result of their intervention before the Court incur professional charges – which are not covered already by the resources provided by the Court's legal aid system – are entitled to be compensated for such actual losses. This compensation is paid during the trial phase and during the other phases of the proceedings if the constraints of the scheduling of judicial activities justify the presence of counsel at the Seat of the Court for a period of more than 15 days.¹⁶
28. Compensation for professional charges can be set by the Registrar up to a maximum of 40% of the total monthly remuneration of the relevant team member's fees. In setting the percentage, the Registry takes into account any objective information submitted, including the supporting documentation as proof of the charges counsel *personally* and *actually incurred* in the course of his or her professional practice directly linked to the work of the Court.
29. Compensation for professional charges, as this head of payment entails, is meant to "compensate" for actual professional charges incurred (e.g. increased law society contribution due to intervention before the Court, *inter alia*). It is not to be seen as a second salary or a top up. Similarly, it is neither a gift nor a conduit of windfall.
30. In the present case, counsel of record and the associate counsel, have to date received, above and beyond their monthly legal fees (of 10,832 and 8,965.00 Euros per month), payments under the head of compensation for professional

¹⁶ Annex VIII of the Adjustments.

charges in the amounts of 3,791.20 and 3,137.75 Euros on a monthly basis respectively.

31. The Registrar can only pay compensation for professional charges in accordance with the legal aid system of the Court, based on legitimate professional charges incurred by the team member(s) in question. What is impermissible is to liberally release funds under this head of payment in contravention of the legal aid system when the judicial calendar or the realities and circumstances of the case do not justify such payment, as is the case for the interim payment between the closing arguments and the decision of the learned Trial Chamber I on the guilt or innocence of the accused in the present case. In the Appeals Phase, should the proceedings in the within case reach such a phase, compensation for professional charges will resume in accordance with the prerequisites and modalities of payment as defined by the Court's legal aid system.

On the tasks the defence team may perform after the closing arguments

32. As explained above, the Registry merely implemented through the Letter the legal aid system as established by the applicable texts.
33. The Registry is not in a position to change the legal aid system as is established by the relevant texts, but only to submit proposals to the ASP for their consideration, in particular through the approval of the relevant budget. Within the existing system, the Registry can however consider any need for resources beyond what is in the system only through a request for additional resources submitted by counsel pursuant to Regulation 83 (3) of the RoC. Requests for additional resources will be favourably considered by the Registrar if the requests are founded on objective, tangible grounds.
34. These considerations justify the approach adopted by the Registry with regard to the work plan submitted by the Defence on 18 August 2011.¹⁷

¹⁷ ICC-01/04-01/06-2790-Conf-Exp-Anx2.

35. The Registrar, in her assessment of the workplan has considered the tasks proposed by the Defence and reproduced in her decision.¹⁸ The Registrar is not convinced that they justify the composition of the team as proposed by counsel for the interim period.
36. While the Registrar notes that the tasks listed in the Defence letter of 18 August 2011 were “non-exhaustive”, any reasonable person guided by the dictates of logic would consider that in the said letter, the Defence put forth what it deemed to be its strongest arguments – albeit non-exhaustive – in favour of supporting its request for additional resources.
37. The Registrar respectfully submits that a scrupulous assessment of the Request and the contents of the Defence letter of 18 August 2011, demonstrates that the Defence is attempting to extend legal aid benefits above and beyond what is foreseen under the Court’s legal aid system on questionable, unfounded or premature grounds.
38. As stated in the decision of 18 August 2011, appended to the Request as annex 3, many of the tasks listed by counsel in its letter of the same date in support of a desire to maintain a large team throughout are tasks which, *inter alia*, (i) fall outside of the purview of the Court’s legal aid system,¹⁹ (ii) are premature and/or speculative for the interim period between the closing of arguments and judgment ²⁰ (iii) constitute tasks that an experienced counsel admitted to the Court’s list of counsel, and paid at a rate of 10,832 Euros per month, should reasonably be expected to assume and to bring to completion²¹.
39. As it concerns the Defence’s request to maintain two offices, while all defence and victims teams acting before the Court are allocated a single equipped office at the seat of the Court when free office space is available, the Defence team in the present case has benefited from, not one, but two offices at the Arc

¹⁸ ICC-01/04-01/06-2790-Conf-Exp-Anx3. The Request does not challenge this decision, and therefore the Registrar will not delve at this point in its details.

¹⁹ See *e.g.* Defence letter of 18 August 2011, item number 6.

²⁰ See *e.g.* Ibid, items numbered 1, 3, and 10.

²¹ See *e.g.* Ibid, items numbered 1, 2, 4, 7, 8, 9, 10.

for the duration of the proceedings. In view of the reduced size of the team envisaged by the Court's legal aid system and that the workload of the team will not be as taxing post the closing arguments as compared to the intense activity that is common during the trial itself, as well as the general lack of office space currently at the Court, aggravated by the need for the Registry to accommodate other defence teams which have an immediate need for an office – (e.g. the defence teams in the Kenya Situation preparing for the forthcoming confirmation of charges hearings) –, the Registry finds it only reasonable for the team to forgo one of the two offices they have been assigned as proposed in its Letter of 22 July.

On the financial incidence of the Request

40. Should the Chamber grant the requested resources by the Defence, the Registry informs the honourable Judges that the total incidence in the Court's budget would be at least of 42,951.95 Euros per month (14,623.20 Euros for fees and unsubstantiated compensation for professional charges of Counsel, 12,102.75 Euros for fees and unsubstantiated compensation for professional charges of associate counsel, 6,113 Euros for fees of each Legal Assistant and 4,000 Euros for expenses of the team). The bulk of this total sum falls outside the parameters envisaged by the Court's legal aid system.

On the fact that the Request attacks a concrete aspect of the legal aid system

41. Apart from the unfounded grounds upon which the Request is based, the nature of the Request itself is problematic and on this deficit alone, it is respectfully submitted that the Chamber should reject it.

42. The Request cannot simply be seen through the prism of a "scope" of legal aid argument. When carefully considered, and in light of the applicable legal and policy framework in place, the Request *de facto* challenges the legal aid system of the Court itself by attempting to create legal aid entitlements where none reasonably exist, and beyond the boundaries clearly established by the legal texts and policies of the Court governing legal aid.

43. The Registrar respectfully submits that the calling into question of a concrete aspect of the legal aid scheme itself, leading to an alteration of the system – as is the case here – is not permissible²².
44. The Registrar reiterates that the Request seeks, in effect, to challenge the scheme for legal assistance paid by the Court as established by the applicable legal texts and as approved by the ASP – a system instituted to ensure the equal treatment of persons whose costs are covered by the Court's legal assistance scheme, as well as, equality of arms, objectivity, transparency, continuity and economy in implementing that scheme. These principles which govern the Court's legal aid system are not to be read selectively and in vacuum to advance an interest when in suits, but rather collectively and in line with the applicable legal texts and policies concerning the legal aid scheme of the Court.
45. Based on the foregoing, the Registrar respectfully submits that to grant the Request would be to set a precedent that is in contradiction with the black letter of the law, as it were, as it concerns the legal regime governing the Court's legal aid system with serious financial consequences for the Court. Such a finding would equally be inconsistent with the policies and practices of the Registry concerning legal aid, and would entail an interference with an ASP sanctioned legal aid scheme. There is simply no defensible legal or factual basis to support the Request.
46. The Registrar further submits that granting the Request would, in effect, open the flood gates for similar claims against the Court's vital legal aid scheme. In addition to unduly altering the legal aid system of the Court as established by the ASP, such a decision would directly place added and undue strain on a

²² See *Prosecutor v. Hadžihasanović et al.*, Trial Chamber II which noted that "the aim of the motion was to challenge the legal aid system itself rather than its application and that it is not for the Chamber, in the context of a particular case, to take decisions leading to an alteration of it which would affect all cases pending before the Tribunal". In this particular case, the motion was deemed to be inadmissible. See also *Prosecutor v. Hadžihasanović et al.*, Case No. IT-01-47-PT, "Urgent Defence Motion for ex parte Oral Hearing on Allocation of Resources to the Defence and Consequences Thereof for the Rights of the Accused to a Fair Trial", 10 April 2003.

publically funded system, which aims to provide crucial funding for legal representation of indigent suspects, accused persons and victims implicated in the Court's proceedings.

47. The resources claimed in the Request, on the facts, are not "reasonably necessary [...] for an effective and efficient defence", for the periods of the proceedings in question; and for the Registrar to find otherwise would be to act in violation of the express provisions of the Court's legal aid system and to negate her positive obligation to the ASP to judiciously manage legal aid funds granted to the Court.
48. Lastly, the Registrar respectfully submits that the reasonably sufficient benefits granted to legal teams under the Court's legal aid system – benefits which are, in many ways, unprecedented when compared to their equivalents at the *ad hoc* tribunals and special courts – should not be allowed to be exceeded by beneficiaries, who might use the mantle and threat of pseudo violations of the rights of the defence to coerce and extract additional funds from a publically funded legal aid system when none are justifiably payable. This practice would not only have a detrimental impact on the budget of the Court – excluding the human resources cost of processing such tenuous claims –, but it may also create the adverse situation where meritorious claims for legal aid cannot be adequately responded to by the Registry either due to lack of resources, or insufficient time to promptly process such legitimate requests as the limited human resources of CSS are consumed and spent processing frivolous claims.
49. There are parallel burdens placed on the Chamber and the main proceedings which are unnecessarily bogged down by such unfounded ancillary 'litigious' matters, which cause undue delays and derail the proceedings from its course

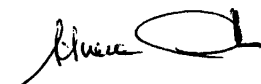
to the detriment of the rights of the defendant to be tried without undue delay²³.

50. It is respectfully submitted that it is both the responsibility of the Registrar and the Court as a whole, to guard against such practices and undesired outcomes.

Classification of the Present Observations

51. The present observations are classified as indicated at page 1, *supra*, in conformity with Regulation 23.2 *bis* of the Regulations of the Court.

52. The Registrar remains at the disposal of The Honourable Judges of Trial Chamber I should further amplifications or information be required.



Silvana Arbia

Registrar

Dated this 23 August 2011

At The Hague, Netherlands

²³ Article 67.1 (c) of the Statute.