

1 International Criminal Court

2 Pre-Trial Chamber I - Courtroom 1

3 Situation: Democratic Republic of the Congo

4 In the case of The Prosecutor v. Callixte Mbarushimana - ICC-01/04-01/10

5 Presiding Judge Cuno Tarfusser, Judge Sylvia Steiner and

6 Judge Mmasenono Monageng

7 Status conference

8 Wednesday, 4 May 2011

9 (The hearing starts in open session at 5.02 p.m.)

10 THE COURT USHER: All rise. The International Criminal Court is now in session.

11 Please be seated.

12 PRESIDING JUDGE TARFUSSER: Good afternoon to everybody. Please, court

13 officer, would you call the case.

14 THE COURT OFFICER: Good afternoon, Mr President, your Honours. The

15 situation in the Democratic Republic of Congo, the case of The Prosecutor versus

16 Callixte Mbarushimana, case reference ICC-01/04-01/10. Thank you, your Honours.

17 PRESIDING JUDGE TARFUSSER: Thank you very much. The Prosecutor, the

18 Defence, the Registry and the representatives of NFI have been invited to this hearing,

19 and I suppose they are here. I see everybody else is here and the representatives of

20 NFI as well.

21 In accordance with the established practice of this Court, I will first ask the parties

22 and participants to introduce themselves, beginning from the Office of the Prosecutor.

23 MR STEYNBERG: Appearing for the Prosecution today is Julieta Solano, trial

24 lawyer; Marion Rabanit, assistant trial lawyer; Dr Eric Baccard, forensic coordinator,

25 Scientific Response Unit; and Kimberly Fleming, case manager; as well as myself,

1 Anton Steynberg, senior trial lawyer. Thank you.

2 PRESIDING JUDGE TARFUSSER: Thank you very much. I now turn to the
3 Defence. Please, Mr Kaufman.

4 MR KAUFMAN: Good afternoon, your Honours. To my right, Ms Yael
5 Vias-Gvirsman, legal assistant; behind me immediately, Mr Daniel
6 Ntawumenyumunsi, our new case manager; and to his right, Ms Vedrana Residovic
7 from OPCV to help with any teething problems; and on the back row, Mr Callixte
8 Mbarushimana himself.

9 PRESIDING JUDGE TARFUSSER: Thank you very much. I would now like the
10 delegation of NFI to identify and introduce its members.

11 MS O'SULLIVAN: Good afternoon, your Excellency. From the NFI today is Doris
12 Eerhart, international forensic adviser; Martijn Kieft from our digital technology
13 department; and I'm Irene O'Sullivan, international forensic adviser.

14 PRESIDING JUDGE TARFUSSER: Thank you. And finally, the Registry.

15 MS DAHURON-JACOBY: (Interpretation) Good afternoon, your Honours. The
16 Registry is represented today by Madam Suárez to my left, legal coordinator of the
17 services of the Court; Mr Uros Mijuskovic, jurist; Mr Dahirou Sant-Anna, jurist; and I
18 myself; Charlotte Dahuron-Jacoby; head of the Legal Administration Service.

19 PRESIDING JUDGE TARFUSSER: Thank you very much. This hearing was
20 convened with a view to allow consultations within the meaning of Rule 114 of the
21 Rules of Procedure and Evidence in order to determine measures to be taken and the
22 modalities of their implementation in respect of unique investigation opportunity
23 which seems to have arisen in the case under Article 56 of the Statute.

24 In fact, on 26 April 2011, the Prosecutor requested the Chamber's authorisation to
25 conduct destructive analysis on a corrupted disk. In this request he submitted that

1 the disk has been provided by the French authorities and contained copies of
2 intercepted communications originating from phones attributed to Mr Callixte
3 Mbarushimana. The disk was corrupted and thus unreadable, and there existed no
4 other copies of these conversations. Then he had delivered the disk to
5 The Netherlands Forensic Institute and the NFI succeeded in recovering part of the
6 data - 86 per cent - on the disk by conducting a nondestructive analysis and
7 recommended that destructive analysis on the disk may allow to retrieve the missing
8 14 per cent of the data.

9 On this basis, on 28 April, the Single Judge decided to convene this hearing before the
10 Chamber considering that if, indeed, the performance of a destructive analysis of the
11 disk was the only feasible available solution to retrieve the data, there arose a unique
12 investigative opportunity within the meaning of Article 56(1)(a) for which
13 consultations with the parties are mandated by Rule 114.

14 The purpose of this hearing is twofold: First, to hear the Prosecutor and the NFI as
15 regards the analysis which has already been completed, and its results, as well as in
16 respect of what additional analysis may be performed on the relevant disk. The
17 Defence will obviously have the opportunity to reply.

18 Second, in light of the submissions to allow the Chamber to decide on the steps which
19 should be taken with a view to ensuring that no data which might be relevant for the
20 purpose of the investigation are lost, while at the same time adequately protecting the
21 rights of the Defence.

22 I will now give the Prosecutor the floor to explain the case.

23 MR STEYNBERG: Thank you, your Honour. I might just add that I'm having some
24 difficulty with my headphones, so if the Court would just bear with me, and the
25 Chamber. It's all right.

1 Your Honours, my -- the Prosecution's submissions are set out in a fair amount of
2 detail in our filing to which your Honour has already referred. All that I would
3 really like to add to that as far as the analysis that the Prosecution has undertaken so
4 far is that, following the receipt of the initial report from the NFI, the Prosecution
5 undertook a process of analysis of the files received in order to ascertain whether or
6 not the 14 per cent of data that was unrecovered was in fact data or perhaps just
7 empty slack space. Your Honours, this we did by comparing the files recovered by
8 the NFI with call log information which was contained on other uncorrupted discs.
9 In other words, we compared the dates, times and durations of the recorded calls
10 with the dates, times and durations on the call logs.
11 This was a fairly laborious process. It had to be done manually in the absence of the
12 necessary metadata, and at the end of this process we were able to determine - if the
13 Court will bear with me - that approximately 34 voice calls and 255 SMS messages
14 were unaccounted for. As soon as that became apparent to the Prosecution, we took
15 the decision to submit the filing which the Chamber has before it.
16 As to the precise steps which the NFI can take, I think that the experts from the NFI
17 will be in a better position to explain that. What the Prosecution would like to stress
18 is that where we stand at the moment, we do not have access to these 255 SMS
19 messages and 34 voice calls. Although, as I understand it, the destructive analysis
20 may not be successful and may result, as the name suggests, in the destruction of this
21 data, in the Prosecution's submission, we will be in a no worse position than we are
22 now. So it presents an opportunity. There are risks, but the risks, in the
23 Prosecution's submission, will not place us in a worse position than we are at the
24 moment. Now, I say this subject to any advice from the experts.
25 Regarding the steps necessary to protect the suspect's rights, the Prosecution's

1 proposal is that the analysis be conducted by the NFI. I am advised that the NFI is
2 an independent forensic institute. Not only is it independent of the Office of the
3 Prosecutor and the ICC, I believe it is also independent of the Netherlands police and
4 prosecution services.

5 The Prosecution submits, your Honours, that the NFI may be trusted to conduct an
6 objective investigation. I am instructed that they have been used on previous
7 occasions in other cases without problems, and the Prosecution's submission is that
8 this will adequately protect the rights of the suspect. Of course, my learned friend
9 may take a different view and I will listen with interest to his submissions and
10 respond, if necessary.

11 Your Honours, unless there's any other particular aspect you'd like to hear me on, I
12 would first like to hear the submissions of the experts and my learned friend and, if
13 necessary, respond thereto.

14 JUDGE MONAGENG: Mr Prosecutor, you observed that NFI has been used in other
15 cases. Are these our cases, cases of the International Criminal Court?

16 MR STEYNBERG: My instruction is that the NFI were involved in the Lubanga case
17 and they did -- I'm not sure of the exact nature of the work that they did. Your
18 Honour will bear with me.

19 JUDGE STEINER: If I may, this is --

20 MR STEYNBERG: In the DRC situation.

21 JUDGE STEINER: This is under seal, so I would -- it's in the Lubanga case, but I
22 would prefer not to go into details.

23 MR STEYNBERG: Thank you, your Honour. I'm unable to go into it because that's
24 all I know about it. Thank you.

25 PRESIDING JUDGE TARFUSSER: Thank you. So I give the floor to the

1 representatives of NFI to explain the procedure they adopted until now and what the
2 steps they are thinking to do to retrieve the remaining 14 per cent of the data from
3 this disk and in which condition this disk is and just to have an overall assessment of
4 what you have done and what you are thinking to do.

5 MR KIEFT: Thank you, your Honour. At this moment, we have performed a quick
6 scan of the disk. When it was brought in, we -- there was a question if it was
7 actually the read equipment from the ICC that was used or it was actually the CD that
8 was wrong, and we conducted a quick scan to check if the problem was actually at the
9 CD or at the read equipment.

10 The things I suggest is that we will perform a full pre-investigation, as we do
11 normally with exhibits. That was not yet performed. From that we do a proposal,
12 an investigation proposal, with all the details and the investigation possibilities.

13 I can go in briefly now for the different possibilities. Normally if the CD, for
14 example, has scratches we have the possibilities to machine those scratches out.

15 There is a machine procedure that might be destructive, because we remove a small
16 layer of polycarbonate from the bottom layer, bottom of the CD, that removes the
17 scratches that are there, but as it is this machine's procedure it might be destructive.
18 We have not seen yet problems with it, but some layers of the CD can be damaged
19 and that's a risk.

20 We can do -- can perform, before we do that, a copy of the data that is still on it and
21 that might also be the same 86 per cent without pre-polishing. I think -- well, there
22 was not yet performed any deep going extraction of the copy that was already made.
23 There might be a lot of new files that can be found in the already 86 per cent that's
24 there, so I think those 14 per cent as referred to is not the part that has the most
25 chance of recovering more information.

1 Well, what we can do is investigate the problems that arise from those -- not reading
2 those 14 per cent. It might be scratches, but it might also be another problem that
3 I don't know, because I have not yet seen the CDs myself. A colleague of mine has
4 performed a quick scan. Therefore, I cannot say anything about those 14 per cent,
5 but I know there might be more information coming from the readable 86 per cent
6 than present at this moment.

7 PRESIDING JUDGE TARFUSSER: So until this moment you haven't done anything
8 on the disk itself? You have not made any pre-investigation?

9 MR KIEFT: No, true.

10 PRESIDING JUDGE TARFUSSER: Only this quick --

11 MR KIEFT: Quick scan.

12 PRESIDING JUDGE TARFUSSER: -- look. Quick scan.

13 MR KIEFT: So I don't know exactly the problems that caused those read errors.

14 PRESIDING JUDGE TARFUSSER: So your step would be to make this
15 pre-investigation, then to make a proposal of investigation and then if accepted --

16 MR KIEFT: We can split it up in non-destructive and a destructive (overlapping
17 speakers).

18 PRESIDING JUDGE TARFUSSER: Yes, yes, of course. Yes, yes. Well, the
19 proposal is -- might be complex. Okay. Thank you very much for the moment.

20 MR KIEFT: You're welcome.

21 JUDGE STEINER: May I say something?

22 PRESIDING JUDGE TARFUSSER: Of course.

23 JUDGE STEINER: Thank you, Mr President. If I may just ask a clarification,
24 that -- maybe I should put the question to the Prosecution, but in any case maybe the
25 NFI could clarify.

1 The Prosecution in his filing, his filing 122, paragraph 8, mentions that extraction of
2 data was carried out on the disk and that this extraction produced approximately 86
3 per cent of the data on the disk.

4 The NFI delivered this recovered data to the Prosecution on another disk, so that
5 means that at least part of the information contained in the disk has been already
6 extracted and given to the Prosecution; is that correct?

7 MR KIEFT: That is, indeed, correct. It was done as a service to the ICC, but it was
8 not performed as we do normally pre-investigation with all the forensic sound and
9 quality as we'd normally do. Therefore, it's preliminary and it was actually a quick
10 scan so, therefore, if we do a pre-investigation we also cover again this information.

11 PRESIDING JUDGE TARFUSSER: Now the floor to the Defence.

12 MR KAUFMAN: Thank you, Mr President, your Honours. The Defence is in
13 favour of a forensic analysis for the purpose of retrieving the unreadable portion of
14 this disk, not least because that very portion could contain potentially exculpatory
15 information. It goes without saying.

16 I define potentially exculpatory information in its widest sense, because in
17 circumstances where the French security agencies maintained daily, hourly, even
18 minute-by-minute monitoring of Mr Mbarushimana's communications, the very
19 absence of incriminating information is of itself of evidentiary value.

20 After all, if Mr Mbarushimana was conspiring with individuals in the crime base from
21 his home in Paris, as the Prosecution alleges - and we totally deny - he could only
22 have done this either electronically or telephonically. All his media were intercepted
23 and the absence of criminal communications, in my submission, means the absence of
24 a Prosecution case.

25 Be that as it may, we do have some reservations concerning firstly the procedural

1 framework in which the Prosecution has chosen to seize this learned Pre-Trial
2 Chamber; secondly, the provenance and integrity of all of the CDs comprising French
3 intercepted communications; and, thirdly, the nature of the corruption and of the
4 proposed forensic analysis.

5 So taking my first issue, the Defence does not believe that the Prosecution request
6 comprises a unique investigative opportunity such that it should be dealt with
7 pursuant to the procedural framework set out in Article 56. I would refer the
8 Prosecution and the learned Pre-Trial Chamber to the relevant chapter in Mr Otto
9 Triffterer's commentary on the Rome Statute, that chapter being authored by a very
10 distinguished fellow called Fabricio Guariglia.

11 In fact, if Mr Steynberg were to walk down his office corridor he could have discussed
12 the matter with him personally because he works in the Office of the Prosecutor and
13 he would have told him if this request, indeed, meets the requirements of Article 56
14 because Mr Guariglia would no doubt refer him to his chapter in Triffterer where he
15 says as follows:

16 That a unique investigative opportunity arises from the factual impossibility to
17 present an item of evidence at trial because of the Prosecutor's temporary access to it
18 or because of the exhibit's transitory nature.

19 In the present instance, the exhibit concerned is a corrupted disk which is going
20 nowhere, and will not disappear tomorrow or even the day after. By framing its
21 request as an application under Article 56, the Prosecution is trying to precipitate in
22 my submission a sense of urgency which just does not exist.

23 The Defence would like to conduct a well researched review and choice of its own
24 experts who may be of assistance and in attendance at the proposed forensic analysis.

25 This is not something which can be done in a hasty fashion, nor is it something that

1 we should be required in my submission to do in a hasty fashion.
2 Let me remind the Court that the Prosecution allegedly first became aware of this
3 corrupted disk on 26 January 2011 and received the report of the NFI on
4 21 March 2011. Now, I ask the learned Pre-Trial Chamber why did they wait a
5 whole month before asking for the destructive forensic analysis?
6 Now, today we've heard that various additional tests were performed by a
7 comparison to the log of French intercepted communications and identified 34 voice
8 calls and 255 SMS messages which are allegedly missing, but still there is no
9 explanation given for the time-frame for the present application.
10 So since I'm unfortunately a bit of a cynic by nature, I'm rather inclined to believe that
11 the last minute nature of the Prosecution request is perhaps explained by paragraph
12 15 of the filing where they imply that granting the forensic analysis sought will
13 obligate a variation of 2 May deadline for the disclosure of Rule 77 materials for use at
14 Confirmation.
15 To summarise the first point, while approving of the Court's supervision of the
16 forensic analysis the Defence does not see why it should have to make an impulsive
17 decision as to its choice of expert or as to the institution in which such a forensic
18 analysis should be conducted.
19 With no disrespect, of course, to the NFI whose representatives are here in court
20 today, why should the Defence accept this institution as the appropriate forum for
21 forensic analysis? The Prosecution says that the NFI is an independent institution - I
22 don't doubt that - but for the first time today I also hear of something which I cannot
23 make any reference to, the Lubanga case, and I don't know the circumstances in
24 which the NFI was involved in that case.
25 So the independence is also something which we are entitled to express our opinion

1 on. Perhaps we have an alternative institution. I can't today, I'm afraid, suggest to
2 the Court the name of any such institution because in the short time that that has been
3 given to us - namely, since Thursday, when the learned Single Judge gave his order to
4 convene consultations - we have just not had the opportunity to be able to consider
5 the matter.

6 My point merely is that Article 56 precipitates a sense of urgency which is not
7 required in my submission in the present circumstances.

8 Turning to the second issue - namely, the provenance of this CD and, in fact, all of the
9 CDs containing the French intercepted communications - I have seen no proof that
10 these disks are indeed the disks copied by and emanating from the French
11 gendarmerie. I have seen no report from the French gendarmerie explaining how it
12 came about that the original recordings of these intercepts were quite astonishingly
13 destroyed.

14 Arguments concerning the admissibility of copies in place of originals and the
15 potential for their falsification, illegal splicing and corruption will, of course, be
16 presented when the Prosecution seeks to adduce the evidence. It's not relevant for
17 today's hearing.

18 For the time being, however, I would merely ask the Prosecution to prove to this
19 learned Pre-Trial Chamber that the disk which it seeks to examine and, for that matter,
20 all seven of the CDs in question were properly seized with a Court order. Let them
21 produce the appropriate documentation from the information that they should have
22 disclosed by 2 May 2011.

23 I have been saying that this information is of material benefit to the Defence. After
24 all, why should this Court go to the trouble of ordering a costly and time-consuming
25 analysis on an exhibit for which there is no guarantee that it was lawfully seized or

1 correctly transferred to the custody of the Prosecution?

2 There should be no problem for the Prosecution to give you this information here and
3 now. After all, they were ordered to disclose all information in their possession
4 pertaining to the legality of the intercepts by virtue of decision number 47 in the case
5 record. I refer the Court to paragraph 16.

6 It is not just me who is pedantic in this respect. Let me refer the learned Pre-Trial
7 Chamber to the disclaimer contained in Annex A to the Prosecution request, and if I
8 may just read it out, "Results on a DVD recordable or in this document shouldn't be
9 used in court without proper chain of custody." So where is that chain of custody
10 and why is the Prosecution referring you to this document without that chain of
11 custody?

12 Finally, I turn to the nature of the corruption and the proposed -- and the nature of
13 the proposed forensic analysis. From the same annex to the Prosecution request, it
14 would appear that the CD in question arrived at the Netherlands Forensic Institute
15 physically damaged. Now, I ask myself, who damaged this disk? The Prosecution
16 mentioned it in paragraph 7 of their filing.

17 Was it the French authorities, or was it the Office of the Prosecutor? I don't know,
18 nor does the Court know, because the Prosecutor produces an unsigned, undated
19 informal scientific opinion loaded with technological terminology which blames the
20 corruption on faults during production without further explanation.

21 The Prosecution further alleges that a destructive forensic analysis of the disk is
22 necessary, but that's not what is written in the annex. The annex in fact proposes
23 one or two further carving or extraction options, but does not state that these options
24 entail destructive analysis. I am not sure today whether the NFI know whether
25 destructive analysis is necessary. I haven't heard them say it.

1 What is more, from this letter circulated shortly before this hearing, it would appear
2 that this Court is not to accord the scientific annex to the Prosecution request as a
3 formal NFI expert opinion. In other words, the NFI report is merely an indicative
4 courtesy and not an expert report.

5 This learned Pre-Trial Chamber in my submission has no grounds for presuming that
6 destructive analysis is in fact necessary. Those are the three reservations that I wish
7 to make, but then as I say you have your own -- the general principle is that the
8 Prosecution -- sorry, the Defence is in fact in favour of the forensic analysis.

9 PRESIDING JUDGE TARFUSSER: Thank you very much. Does the Prosecution
10 want to add something to what the Defence said?

11 MR STEYNBERG: Thank you, your Honour. I have to stand very still. Your
12 Honour, yes, with the Court's leave, I would like to reply to certain aspects raised. I
13 note my learned friend's observation that he is in favour of the recovery of the
14 corrupted data.

15 I note his submission that it may contain potentially exculpatory material. I am
16 slightly perplexed by his submission that the absence of any incriminating evidence is
17 in itself an exculpatory factor, but I suggest, your Honours, that that is a matter, an
18 argument for a later date.

19 As far as the -- whether or not the Prosecution was correct in framing its filing as a
20 unique investigative opportunity, my learned friend refers to the necessity that the
21 evidence in question is transitory in nature and suggests that there is no urgency in
22 the present case in extracting the corrupted data. I don't think it is necessary to
23 remind the Chamber that the confirmation hearing is set for a date two months away;
24 that the Prosecution is under a strict regime of deadlines for disclosure and for the
25 production of its document containing the charges and list of evidence.

1 Therefore, there is very much a sense of urgency in obtaining this evidence as it must
2 be obtained in order to be disclosed and in order to be analysed. And in these
3 circumstances, your Honours, I submit that the recovery of this data does indeed fall
4 within the context of a unique investigative opportunity.

5 My learned friend refers to his doubts regarding the provenance et cetera of this
6 material. I think perhaps my learned friend has skipped directly to the trial in this
7 matter, but the Prosecution is not tendering this evidence before the Court at the
8 moment, nor is it tendering the CDs or the contents thereof at the moment.

9 What we are trying to do is get to a stage where we are able to prove the reliability
10 and provenance of this evidence in order to tender it, and it is in those circumstances
11 that your Honours have been invited to get involved in the process to ensure that the
12 Chamber is satisfied with the manner in which the Prosecution proposes to proceed
13 and indeed to give my learned friend the opportunity to be heard on this matter.

14 My learned friend also referred to the delays or alleged delays in bringing the
15 application, and as a self-confessed skeptic speculates that the Prosecution, or
16 suggests or implies that the Prosecution may have been sitting on its hands on this
17 information and belatedly woken up to the matter. I can assure your Honours that
18 this is not so.

19 I have already explained that in the time from which the initial report was received
20 from the NFI our knowledge base unit was hard at work in trying to analyse and
21 ensure and discover whether or not there was any data to be extracted. If there was
22 indeed no data lost then this entire process would have been unnecessary. It was
23 only once we had been able to ascertain that, that the Prosecution felt it was necessary
24 to embark upon this procedure.

25 Bear with me, your Honours. Thank you, your Honour. The

1 recommendation -- my instructions are that the recommendation that the destructive
2 analysis should be followed was not necessarily contained in the report, but in what
3 the expert concerned in compiling this report told the investigator who was liaising
4 with him.

5 As far as the -- this report is obviously an informal report, it is intended to start a
6 procedure, not to finish the procedure. The experts from the NFI have already
7 proposed what, in the Prosecution's submission, would be a suitable procedure
8 whereby they complete their proper pre-investigation report and present the
9 Chamber with a number of options which in a report, presumably, which my learned
10 friend will then have the opportunity to comment on.

11 PRESIDING JUDGE TARFUSSER: Thank you very much. Mr Kaufman, do you
12 want to reply? Thank you very much. Pardon?

13 JUDGE STEINER: Just a clarification from the Prosecution. The experts of the NFI
14 have already proposed what in the Prosecution's submission will be a suitable
15 procedure whereby they complete their proper pre-investigation report and present
16 to the Chamber with a number of options, to make it sure that this, with this
17 pre-investigation, the disk would not be destroyed?

18 MR STEYNBERG: My understanding is that the pre-investigation report is -- would
19 be a formal repetition and expansion upon what the NFI has already done, but that it
20 would be entirely nondestructive. I think that the people best placed to confirm that
21 would be the experts, but that is my understanding, and only the -- as a result of that
22 pre-inspection, they will recommend a number of options, both destructive and
23 nondestructive, and only once they have been given the opportunity to proceed with
24 any destructive analysis will they do so. That is my understanding.

25 JUDGE STEINER: Could the NFI confirm that information, please?

1 MR KIEFT: I can indeed confirm that. Pre-investigations are normally done and
2 performed without the destructive part, because we want the Defence and the Judges
3 to have that be a part of the investigation under control. Therefore, we only
4 investigate and give the options that are non -- or destructive for the whole process.
5 I hope that is clarified enough.

6 MS EERHART: Can I add something?

7 PRESIDING JUDGE TARFUSSER: Of course.

8 MS EERHART: Before we gave you the opportunities to make a decision for
9 destruction or non-destructive analysis as a final investigation from the NFI, indeed,
10 if there is an option for destructive analysis, we always give the opportunity for our
11 client at that moment to sign a waiver that they fully agree that there is a possibility
12 that the analysis will destruct also the possible data. So always the client - either
13 OTP, Registry, Defence or Court - is in full control until the very last moment.

14 PRESIDING JUDGE TARFUSSER: Another question: How long it will take about
15 this pre-investigation and eventually also the full extraction of the data,
16 approximately?

17 MR KIEFT: Pre-investigations are normally done in eight hours, and upon those
18 options, in the options will be -- investigation options will be the time that every
19 option takes to perform, and it's also planned in our schedule with other cases and
20 therefore an estimate of -- a deadline, as you can call it, for the final result will be
21 there in the investigation --

22 PRESIDING JUDGE TARFUSSER: Proposal.

23 MR KIEFT: Proposal. Sorry, thank you.

24 PRESIDING JUDGE TARFUSSER: But is there --

25 (Pre-Trial Chamber confer)

1 PRESIDING JUDGE TARFUSSER: Sorry, has the Registry any observations?

2 MS DAHURON-JACOBY: (Interpretation) No, your Honour.

3 PRESIDING JUDGE TARFUSSER: Thank you. So if there is nobody else wants to

4 take the floor, I think we can conclude this hearing and we will come with a -- we will

5 file the decision probably in 24 hours on the whole matter.

6 Thank you to everybody. Thank you to the court recorders and to the interpreters,

7 and this concludes the hearing. Thank you very much.

8 THE COURT USHER: All rise.

9 (The hearing ends at 5.43 p.m.)