

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/04-01/10  
Date: 17 February 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**

**Order for the Prosecutor's Observations**

Order 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

**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**

Mr Xavier-Jean Keita

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Deputy Registrar**

**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*;<sup>1</sup>

**NOTING** the “Decision Scheduling a Hearing on Issues relating to Disclosure between the Parties”,<sup>2</sup> issued on 7 February 2011, whereby the Single Judge decided to convene a hearing (“Hearing”) to be attended by the Prosecutor, the Defence Counsel (“Defence”) and the Registrar, with a view to discussing matters relating to the disclosure of materials by the Prosecutor to the Defence for the purposes of the confirmation hearing;

**NOTING** that the Hearing took place on 14 February 2011;

**NOTING** article 57 of the Rome Statute and regulation 28 of the Regulations of the Court;

**CONSIDERING** that at the Hearing, the Defence raised a number of issues to which the Prosecutor responded only briefly, indicating that he would prefer to make further observations in writing;<sup>3</sup>

**CONSIDERING** that at the Hearing, the Defence stated that it did not wish to make a written application regarding these issues and that what it said at the Hearing was sufficient;<sup>4</sup>

**CONSIDERING** that written observations of the Prosecutor may be of assistance to the Chamber when deciding on some of the matters raised by the Defence;

**FOR THESE REASONS,**

**ORDER** the Prosecutor to file, no later than Thursday, 24 February 2011, observations on the following:

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

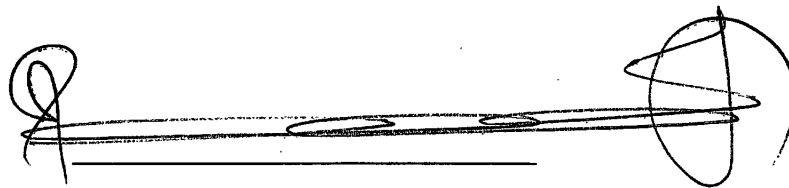
<sup>2</sup> ICC-01/04-01/10-52.

<sup>3</sup> Transcript of the Hearing, ICC-01/04-01/10-T-2-ENG (“Transcript”), pp. 28, 34.

<sup>4</sup> Transcript, pp. 32-33.

- (1) the Defence's request that the Chamber order the Prosecution to effect immediate compliance with the Chamber's decision of 27 January 2011 regarding disclosure ("Decision on Disclosure"),<sup>5</sup> a request which is based on the contention that some information has not been disclosed to the Defence, contrary to the said Decision;<sup>6</sup>
- (2) the Defence's request that the Chamber order the Prosecution to disclose to the Defence the French intercepts which Prosecutor Moreno-Ocampo allegedly spoke about in an interview and that a telephone log be subject to the Decision on Disclosure;<sup>7</sup> and
- (3) the Defence's request that the Chamber order the release of full materials mentioned in Annexes 5 and 6 to the Prosecutor's application for a warrant of arrest.<sup>8</sup>

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

A handwritten signature in black ink, consisting of a stylized initial 'S' on the left and a large, circular flourish on the right, connected by a horizontal line.

**Judge Sanji Mmasenono Monageng**

**Single Judge**

Dated this Thursday, 17 February 2011

At The Hague, The Netherlands

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<sup>5</sup> "Decision on the Defence Request for Disclosure", ICC-01/04-01/10-47.

<sup>6</sup> Transcript, pp. 20, 32.

<sup>7</sup> Transcript, pp. 21-22.

<sup>8</sup> Transcript, pp. 22-23. Reference is made to "Prosecutor's Application under Article 58", 20 August 2010, ICC-01/04-01/10-11-Conf-Red2.