

**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

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*;¹

NOTING the “Decision Scheduling a Hearing on Issues relating to Disclosure between the Parties”,² 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;³

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;⁴

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:

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

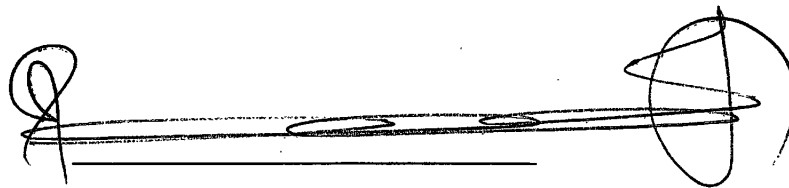
² ICC-01/04-01/10-52.

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

⁴ 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"),⁵ a request which is based on the contention that some information has not been disclosed to the Defence, contrary to the said Decision;⁶
- (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;⁷ 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.⁸

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



Judge Sanji Mmasenono Monageng

Single Judge

Dated this Thursday, 17 February 2011

At The Hague, The Netherlands

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

⁶ Transcript, pp. 20, 32.

⁷ Transcript, pp. 21-22.

⁸ 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.