

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/10

Date: 8 March 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 on the time limit for the Prosecutor's response to the "Defence Request for
Suspensive Effect of Decision ICC-01/04-01/10-67"**

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**

Ms Paolina Massidda

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

Mr Xavier-Jean Keita

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 Temporarily Suspending Dealings with Transcripts and Original Recordings of Intercepted Communications and Materials Seized from the House of Mr. Callixte Mbarushimana” (“Interim Decision”)², issued on 25 February 2011, whereby the Single Judge (i) ordered the Registry to withdraw the access of the Prosecutor to, *inter alia*, any of the materials seized from the house of Mr Callixte Mbarushimana (“Mr Mbarushimana”); and (ii) ordered the Prosecutor to cease all dealings with these materials and to quarantine them pending resolution of the issues raised in previous filings by the Prosecutor and the Defence for Mr Mbarushimana (“Defence”);

NOTING the “Decision on the ‘Prosecution’s request for a review of potentially privileged material’” (“Decision”)³, issued on 4 March 2011, whereby the Chamber (i) decided that the Interim Decision ceases to be effective; and (ii) established a procedure for the selection of potentially privileged communications by the Registry and their subsequent review by the Chamber;

NOTING the “Defence Request for Suspensive Effect of Decision ICC-01/04-01/10-67” (“Defence Request”)⁴, filed on 7 March 2011, whereby the Defence requests the Chamber to (i) grant suspensive effect to the Decision; and (ii) order reinstatement of the Interim Decision pending resolution of the interlocutory appeal for which the Defence intends to seek leave or, in the alternative, pending a decision of the Appeals Chamber on the matter, should leave to appeal be granted;

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

² ICC-01/04-01/10-63.

³ ICC-01/04-01/10-67.

⁴ ICC-01/04-01/10-68.

NOTING regulations 24(1) and 34 of the Regulations of the Court (“Regulations”);

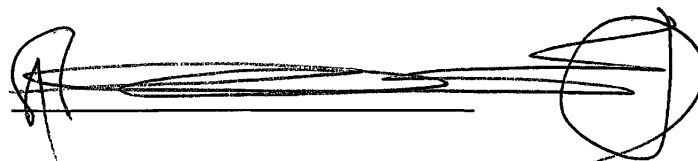
CONSIDERING that according to the chapeau of regulation 34 of the Regulations, a time limit other than the 21 days provided for in paragraph (b) of this regulation may be fixed by the Chamber;

CONSIDERING that the filing of the Prosecutor’s response to the Defence Request within 21 days would defeat the purpose of the Request;

FOR THESE REASONS,

ORDER the Prosecutor to file his response, if he wishes to do so, no later than Wednesday, 9 March 2011, at 16h00.

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

A handwritten signature in black ink, consisting of several overlapping loops and lines, positioned above a horizontal line.

Judge Sanji Mmasenono Monageng

Single Judge

Dated this Tuesday, 8 March 2011

At The Hague, The Netherlands