

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 24 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**

**Decision on the "Defence Request for an order for State Cooperation Pursuant to Article 57(3)(b) of the Rome Statute"**

Decision 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 “Defence Request for an order for State Cooperation Pursuant to Article 57(3)(b) of the Rome Statute” (“Request”),<sup>2</sup> filed on 14 March 2011, whereby the Defence Counsel (“Defence”) for Mr Callixte Mbarushimana (“Mr Mbarushimana”) submits that it is essential for the preparation of a request for interim release that the Chamber seeks the cooperation of France in order to obtain the confirmation that the French authorities agree to receive Mr Mbarushimana onto French territory, should he be released;

NOTING article 57(3)(b) of the Rome Statute, rules 116 and 119(3) of the Rules of Procedure and Evidence (“Rules”), and regulation 51 of the Regulations of the Court (“Regulations”);

CONSIDERING that, according to regulation 51 of the Regulations, for the purposes of a decision on interim release, the Pre-Trial Chamber shall seek observations from, *inter alia*, the State to which the person seeks to be released;<sup>3</sup>

CONSIDERING therefore that it is for the Chamber to request observations from the State concerned, only if and when an application for interim release is made, and that it is not required that such observations should be obtained by the person applying for interim release and included in that person’s application;

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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-01/04-01/10-76.

<sup>3</sup> See also *The Prosecutor v. Jean-Pierre Bemba Gombo*, “Judgment on the appeal of the Prosecutor against Pre-Trial Chamber II’s “Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa””, 2 December 2009, ICC-01/05-01/08-631-Red, para. 106.

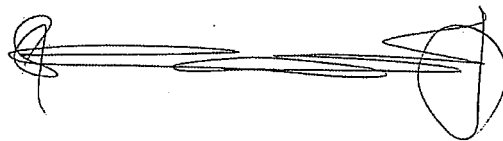
**CONSIDERING** thus that the information that the Defence seeks is not material to the proper preparation of a request for interim release, within the meaning of rule 116(1)(a) of the Rules;

**CONSIDERING** that pursuant to rule 116(2) of the Rules the Chamber has discretion whether or not to seek the views of the Prosecution on a request for co-operation and that in this instance the Chamber sees no need for seeking such views;

**FOR THESE REASONS,**

**REJECT** the Request.

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



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**Judge Sanji Mmasenono Monageng**

**Single Judge**

Dated this Thursday, 24 March 2011

At The Hague, The Netherlands