

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 18 April 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 the Defence Request for Leave to Reply to the Prosecution's Response to
the Defence Request for Interim Release**

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
 Ms. Yael Vias-Gvirsman

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

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 “Defence Request for Interim Release” (“Request”),² filed on 30 March 2011, whereby the Defence for Mr Mbarushimana requests the Chamber to order the interim release of Mr Mbarushimana to his French domicile and submits that, in light of the nature of the Request, which “concerns the liberty of the individual”, good cause is shown for reducing the time limit for a Prosecution response to the Request;

NOTING the “Prosecution response to the “Defence request for Interim Release”” (“Prosecution’s Response”)³ filed on 15 April 2011, whereby the Prosecution submits that the detention of Mr Mbarushimana must continue as (i) the conditions justifying detention under article 58(1) of the Rome Statute (“Statute”) continue to subsist; and (ii) there has been no inexcusable delay by the Prosecution, nor has the Suspect been detained for an unreasonable period within the meaning of article 60(4) of the Statute;

NOTING the “Defence request for Leave to Reply to the Prosecution’s Response to the Defence Request for Interim Release” (“Defence Request for Leave to Reply”)⁴ filed on 16 April 2011, whereby the Defence requests leave to file a short reply to the Prosecution’s Response, on the basis that the Prosecution’s Response refers to “new developments and evidence” which would justify the necessity to maintain his arrest, which was not in the Prosecution’s possession at the time that it requested the arrest warrant, and that the Defence should be given the opportunity to respond;

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

² ICC-01/04-01/10-86, with Annexes.

³ ICC-01/04-01/10-101, with Public Annex 1 and Confidential Annex 2.

⁴ ICC-01/04-01/10-107.

NOTING rule 118(3) of the Rules of Procedure and Evidence ("Rules"), and regulations 24(5) and 34 of the Regulations of the Court ("Regulations");

CONSIDERING that in the present circumstances the Chamber deems it appropriate to receive further observations from the Defence, before deciding on Mr Mbarushimana's request for interim release;

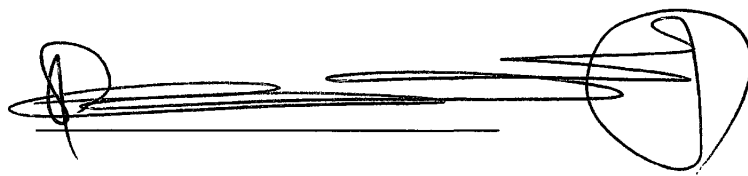
CONSIDERING further that in accordance with regulation 34 of the Regulations, a time limit other than 10 days may be fixed by the Chamber;

FOR THESE REASONS,

GRANTS the Defence Request for Leave to Reply;

ORDERS the Defence to file its reply no later than Tuesday, 26 April 2011.

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

A handwritten signature in black ink, consisting of a series of loops and horizontal strokes, positioned above a horizontal line.

Judge Sanji Mmasenono Monageng

Single Judge

Dated this Monday, 18 April 2011

At The Hague, The Netherlands