Cour Pénale Internationale



# International Criminal Court

Original: English

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

Date: 2 May 2011

## PRE-TRIAL CHAMBER I

**Before:** 

Judge Cuno Tarfusser, Single Judge

## SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

# IN THE CASE OF THE PROSECUTOR V. CALLIXTE MBARUSHIMANA

## **Public**

Decision on the Defence Requests concerning the implementation of the Chamber's 
"Second Decision on matters regarding the review of potentially privileged 
materials" dated 2 May 2011

Decision to be notified, in accordance with Regulation 31 of the Regulations of the Court, to:

The Office of the Prosecutor

**Counsel for the Defence** 

Mr Luis Moreno-Ocampo

Mr Nicholas Kaufman

Ms Fatou Bensouda

Ms. Yael Vias-Gvirsman

Mr Anton Steynberg, Senior Trial Lawyer

**Legal Representatives of Victims** 

**Legal Representatives of Applicants** 

**Unrepresented Victims** 

**Applicants** Unrepresented

for

Participation/Reparation

The Office of Public Counsel for The Office of Public Counsel for the

**Victims** 

Defence

**States Representatives** 

**Amicus Curiae** 

## **REGISTRY**

Registrar

**Deputy Registrar** 

Ms Silvana Arbia

Mr. Didier Preira

Victims and Witnesses Unit

**Detention Section** 

Victims Participation and Reparations Other

Section

ICC-01/04-01/10-129 02-05-2011 3/4 CB PT

I, Judge Cuno Tarfusser, 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* 

in the absence of Judge Sanji Mmasenono Monageng;1

NOTING the "Defence implementation of the second decision on matters regarding the

review of potentially privileged material" dated 2 May 20112, whereby the Defence inter

alia (i) summarises various steps taken since the issuance of the Chamber's "Second

Decision on matters regarding the review of potentially privileged material" dated 15

April 2011 ("Second Decision") 3; (ii) submits that the full assistance of Mr Mbarushimana

is required if a speedy and effective search of the relevant material is to be conducted by

the Defence, as instructed by the Chamber; (iii) accordingly, requests the Chamber to

order the Registry "to immediately supply Mr. Mbarushimana with exactly the same

hardware, software and training which has been afforded the Defence representatives to

date";

NOTING Article 57(3)(b) of the Rome Statute;

**CONSIDERING** that the Single Judge is satisfied that the assistance of Mr Mbarushimana

is indeed critical with a view to allowing the Defence to complete its task as ordered, also

in light of the proximity of the deadline set for the completion of the Defence's task;

NOTING that the Defence also requests to be allowed to make "brief submissions" on the

implementation of the Chamber's Second Decision at the status conference which has been

convened for Wednesday 4 May 2011 ("Hearing"), pursuant to the Single Judge's "Decision

to hold consultations under Rule 114" dated 28 April 20114;

<sup>1</sup>ICC-01/04-583.

<sup>2</sup> ICC-01/04-01/10-127.

<sup>3</sup> ICC-01/04-01/10-105.

4 ICC-01/04-01/10-126.

**CONSIDERING** that, in light of the specific subject matter of the Hearing, it is inappropriate for the Defence to make submissions regarding the implementation of the Chamber's Second Decision at the said Hearing, without prejudice to the Defence's right to submit observations in writing;

## FOR THESE REASONS,

**ORDER** the Registry to immediately supply Mr Mbarushimana "with exactly the same hardware, software and training which has been afforded the Defence representatives to date" as requested by the Defence;

**REJECT** the Defence's request to make submissions regarding the implementation of the Chamber's Second Decision at the Hearing scheduled for Wednesday 4 May 2011.

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

Judge Cuno Tarfusser

Single Judge

Dated this Monday, 2 May 2011

At The Hague, The Netherlands