

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/04-01/10  
Date: 12 September 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**

**Second decision on the schedule of the confirmation hearing**

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 Yaël Vias-Gvirsman

**Legal Representatives of the Victims**

Me Mayombo Kassongo  
Me Ghislain Mabanga

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

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

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Counsel Support Section**

**Deputy Registrar**

Mr Didier Preira

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Other  
Section**

**I, Judge Sanji Mmasenono Monageng**, the Single Judge of Pre-Trial Chamber I (“Chamber”) of the International Criminal Court (“Court”) 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 “Decision on the schedule of the confirmation hearing” (“First Decision on the Schedule”), issued by the Single Judge on 12 August 2011, at a time when the hearing on the confirmation of the charges in the present case was scheduled to commence on 17 August 2011;<sup>2</sup>

**NOTING** the “Decision postponing the commencement of the confirmation hearing”, issued on 16 August 2011, whereby the Chamber decided to postpone the commencement of the confirmation hearing to 16 September 2011,<sup>3</sup> and the “Decision on ‘Defence request to deny the use of certain incriminating evidence at the confirmation hearing’ and postponement of confirmation hearing”, issued on 16 August 2011, whereby the Chamber underscored that the sole purpose of the postponement of the confirmation hearing was to facilitate proper disclosure of the relevant pieces of evidence;<sup>4</sup>

**NOTING** the “Decision on the representation of participating victims formerly represented by Mr Hervé Diakiese”, issued on 9 September 2011, whereby Single Judge Cuno Tarfusser appointed Me Ghislain Mabanga as the legal representative for the 30 victims formerly represented by Me Hervé Diakiese;<sup>5</sup>

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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-01/04-01/10-356.

<sup>3</sup> ICC-01/04-01/10-374.

<sup>4</sup> ICC-01/04-01/10-378.

<sup>5</sup> ICC-01/04-01/10-409.

**NOTING** articles 61, 67, 68 and 69 of the Rome Statute, rules 63, 121 and 122 of the Rules and regulation 20 of the Regulations of the Court;

**CONSIDERING** that in her First Decision on the Schedule the Single Judge established the principles and the framework in accordance with which the hearing on the confirmation of the charges should be conducted;

**CONSIDERING** the basis upon which the Single Judge's considerations and decisions in her First Decision on the Schedule were predicated;

**CONSIDERING** the amount of time which the Chamber has at its disposal under the prevailing circumstances for the conduct of the confirmation hearing and which is reflected in the schedule and the time allocated to the parties and participants for their oral submissions;

**CONSIDERING** that the efficient and effective conduct of the confirmation hearing depends to a significant extent on the parties' and participants' intention and determination to comply with the time frame set by the Single Judge and provided for in the schedule annexed to the present decision;

**CONSIDERING** that the present decision is taken without prejudice to modifications to be made to the schedule in due time if need be;

**FOR THESE REASONS,**

**DECIDE** that the hearing on the confirmation of the charges shall commence on Friday, 16 September 2011 at 09.00 hours and end no later than Wednesday, 21 September 2011 and be held in public in Courtroom II and conducted in accordance with the schedule set forth in Annex I to the present decision;

**DECIDE** that the parties and the participants shall comply with the timelines set in the schedule annexed to the present decision;

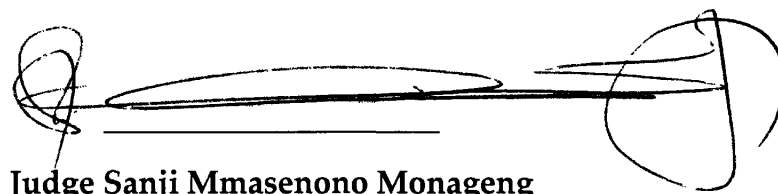
**DECIDE** that the Chamber shall not hear any witness *viva voce*;

**DECIDE** that the Prosecution, the Legal Representatives of the Victims and the Defence shall be entitled to submit after the conclusion of the hearing, their written submissions in relation to issues discussed during the hearing within a time limit to be set by the Chamber;

**ORDER** the Registry to make all the arrangements necessary to enable the Prosecution to use the visual means required to present its visual aids; and

**DECIDE** that photographers shall be authorised to take pictures at the beginning of the confirmation hearing and that they shall have 1 minute to do so.

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

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

**Judge Sanji Mmasenono Monageng**

**Single Judge**

Dated this Monday, 12 September 2011

At The Hague, The Netherlands

**ANNEX I:**  
**SCHEDULE OF THE CONFIRMATION HEARING IN THE CASE OF**  
***THE PROSECUTOR v. CALLIXTE MBARUSHIMANA***

**FRIDAY, 16 SEPTEMBER 2011**

**- First session: 09:00 – 11:00**

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|----------------------|---|
| <b>09:00 – 09:20</b> | Opening of the hearing by the Presiding Judge and reading of the charges pursuant to rule 121(1) of the Rules of Procedure and Evidence (“Rules”)   |
| <b>09:20 – 09:50</b> | Discussion of any issue related to admissibility or the proper conduct of the proceedings, including the issue raised by the Defence with respect to the alleged lack of specificity of the document containing the charges, pursuant to rule 122(2) and (3) of the Rules |
| <b>09:50 – 10:10</b> | Opening statement of the Prosecution  |
| <b>10:10 – 10:40</b> | Opening statement of the Legal Representatives of Victims   |
| <b>10:40 – 11:00</b> | Opening statement of the Defence  |
| <b>11:00 – 11:30</b> | Break   |

**- Second session: 11:30 – 13:30**

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| <b>11:30 – 13:30</b> | Presentation of the evidence by the Prosecution (part I) |
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**MONDAY, 19 SEPTEMBER 2011****- First session: 09:00 – 11:00**

**09:00 – 11:00**      Presentation of the evidence by the Prosecution (part II)

**11:00 – 11:30**      Break

**- Second session: 11:30 – 13:30**

**11:30 – 13:30**      Presentation of the evidence by the Prosecution (part III)

**TUESDAY, 20 SEPTEMBER 2011****- First session: 09:00 – 11:00**

**09:00 – 11:00**      Presentation of the evidence and/or discussion of the  
Prosecution evidence by the Defence (part I)

**11:00 – 11:30**      Break

**- Second session: 11:30 – 13:30**

**11:30 – 13:30**      Presentation of the evidence and/or discussion of the  
Prosecution evidence by the Defence (part II)



**WEDNESDAY, 21 SEPTEMBER 2011****- First session: 09:00 – 11:00**

**09:00 – 11:00**      Presentation of the evidence and/or discussion of the  
Prosecution evidence by the Defence (part III)

**11:00 – 11:30**      Break

**- Second session: 11:30 – 13:30**

**11:30 – 11:50**      Discussion of the Defence evidence by the Prosecution

**11:50 – 12:10**      Defence's reply to the Prosecution discussion of the  
Defence evidence

**12:10 – 12:30**      Closing statement of the Prosecution

**12:30 – 13:00**      Closing statements of the Legal Representatives of Victims

**13:00 – 13:20**      Closing statement of the Defence

**13:20 – 13:30**      Closing of the hearing by the Presiding Judge