

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 21 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

Decision on the “Defence Request for OPCD Support”

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 Keïta

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 “Second Decision on matters regarding the review of potentially privileged material” (“Decision”)² issued by the Chamber on 15 April 2011 whereby the Chamber *inter alia*:

- (i) ordered the Defence to expeditiously carry out and complete its review of the relevant seized material, and to submit to the Chamber a list of the documents on which it claims privilege under rule 73 of the Rules by no later than 6 May 2011; and
- (ii) accordingly ordered the Registry (a) to provide, as soon as possible, the Defence with a copy of all the relevant non-faulty and unprotected devices, in an accessible and searchable format; (b) to immediately provide the Defence with the lists of the files identified through the keyword search which are already available; and (c) to provide the Defence with the lists of the files which will be compiled as regards the remaining seized material as soon as the keyword searches have been completed and the lists compiled;

NOTING the “Defence Request for OPCD Support” (“Defence Request”)³ filed on 20 April 2011, whereby the Defence requests the assistance of the

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

² ICC-01/04-01/10-105.

³ ICC-01/04-01/10-114.

Office of Public Counsel for the Defence (“OPCD”) in order to expeditiously review “thousands of files” within the deadline imposed by the Chamber;⁴

NOTING regulation 77(5) of the Regulations of the Court (“Regulations”) and regulations 144(2) and (3) of the Regulations of the Registry;

CONSIDERING that, pursuant to regulation 77(5) of the Regulations, the OPCD shall provide to the defence counsel, if so requested by him or her, support and assistance;

CONSIDERING that the requested support and assistance would facilitate the Defence’s compliance with its task within the set deadline;

CONSIDERING further that in its Request, the Defence informed the Chamber that, further to contacts with the OPCD’s Counsel, the latter has already “graciously agreed to volunteer the support of 5 staff members of his office” for the sought support and assistance;

CONSIDERING that in order for the abovementioned five members of the OPCD to provide the relevant support and assistance, it is necessary to grant them access to the relevant materials;

FOR THESE REASONS,

GRANT the Defence Request;

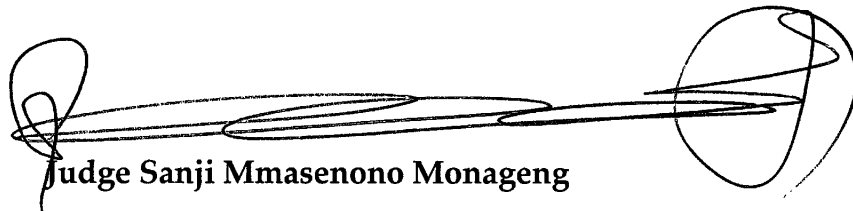
ORDER the OPCD to provide the Registry with the list of the five members who will assist the Defence;

⁴ *Ibid.*, paras 3 and 4.

ORDER the Registrar to give to the five persons to be listed by the OPCD access to the following:

- (i) a copy of all the relevant non-faulty and unprotected devices, in an accessible and searchable format;
- (ii) the lists of the files identified through the keyword search which are already available;
- (iii) the lists of the files which will be compiled as regards the remaining seized material as soon as the keyword searches have been completed and the lists compiled.

Done in 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, followed by a circular flourish on the right.

Single judge

Dated this Thursday 21 April 2011

At The Hague, The Netherlands