

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **27/04/2011**

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***

Confidential, *ex parte*, Defence Only

**Defence request for the compliance of the
Democratic Republic of the Congo with ICC-01/04-01/10-56-Conf-Exp**

Source: Defence for Mr. Callixte Mbarushimana

Document 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. Nicholas Kaufman

Ms. Yael Vias-Gvirsman

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented

Applicants

(Participation/Reparation)

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 15 February 2011, the learned Single Judge of Pre-Trial Chamber I rendered her *"Decision on the Defence's request for State cooperation from the Democratic Republic of the Congo"*.¹

2. In her decision, the learned Single Judge sought the cooperation of the Democratic Republic of the Congo ("DRC") with respect to the transmission of *"any contemporaneous documentation or record of meetings with the OTP retained by the DRC authorities which may shed light on the scope of the referral"* of the DRC Situation to the ICC.

3. The learned Single Judge also recalled that if the DRC authorities identified problems which may impede the execution of the cooperation request, they were to consult the Chamber *"without delay to resolve the matter"*.

4. The Defence has not been notified of any consultation initiated by the DRC authorities concerning problems arising out of the execution of the cooperation request.

5. In light of the aforementioned and given the desirability, if not the obligation, to file a jurisdictional challenge before a confirmation hearing, the Defence respectfully requests that the learned Single Judge remind the DRC authorities of the cooperation request and of their obligations under the Rome Statute.



Nicholas Kaufman

Counsel for Callixte Mbarushimana

Jerusalem, Israel

Wednesday, April 27, 2011

¹ ICC-01/04-01/10-56-Conf-Exp.