

**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

Mr Luis Moreno- Ocampo

Ms Fatou Bensouda

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**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr. Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Other
Section**

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;

¹ICC-01/04-583.

² ICC-01/04-01/10-127.

³ ICC-01/04-01/10-105.

⁴ ICC-01/04-01/10-126.

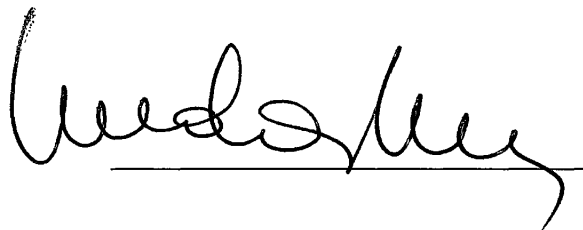
CONSIDERING that, in light of the specific subject matter of the Hearing, it is inappropriate for the Defence to make submissions regarding the implementation of the Chamber's Second Decision at the said Hearing, without prejudice to the Defence's right to submit observations in writing;

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.

A handwritten signature in black ink, appearing to read 'Cuno Tarfusser', written over a horizontal line.

Judge Cuno Tarfusser

Single Judge

Dated this Monday, 2 May 2011

At The Hague, The Netherlands