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

Date: **18/05/2011**

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

Defence Response to Prosecution Filing ICC-01/04-01/10-151

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

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

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

Ms. Silvana Arbia

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section Other**

On 4 May 2011, the Prosecution made its second application for redactions to witness statements indicating as follows:

"The Prosecution has taken a further statement from a crime-base witness and will seek a request for extension of the time-limit for applications for redactions for this statement as soon as the interview is back from mission and a signed copy of the statement is available".¹

Today, 18 May 2011, the Defence was notified of the Prosecution request for extension of the time limit for filing a third application for redactions – this time to the statement of the new crime-base witness. The Prosecution neglected to notify the Defence of its request to seek a variation of a time limit when it sought such on 13 May 2011 and waited 5 days before providing the redacted version thereof. Appropriate notification of the time- limit variation request could easily have been facilitated by making a supplementary public filing to the confidential substantive request for redactions. For this reason alone, the Prosecution request for variation of the time limit should be rejected.

In any event, the Prosecution does not now inform the Pre-Trial Chamber as to when it formulated the idea of taking the new witness statement or whether its intrepid mission for such was even planned with the slightest regard for the Court imposed deadline for redactions – 18 April 2011.

The learned Pre-Trial Chamber is thus requested to reject the Prosecution request for variation of the time limit.



Nicholas Kaufman

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Wednesday, May 18, 2011

¹ ICC-01/04-01/10-135-Conf-Red at paragraph 16.