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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 the first transmission to the Pre-Trial Chamber of
applications to participate in the proceedings**

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

Mr. Hervé Diakiese

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**

Ms. Fiona McKay

Other

The Defence for Mr. Callixte Mbarushimana hereby responds to the Registry's *First transmission to the Pre-Trial Chamber of applications to participate in the proceedings*.¹

The Defence recalls that in its *Order setting a deadline for the transmission of applications for victims' participation*,² Pre-Trial Chamber I expressly stipulated as follows: "*applications for participation that are incomplete at the date set in the present decision will not be examined by the Single Judge*".

In the circumstances, therefore, the Defence is at a loss as to why the Registry (VPRS) suggests that "*if the Chamber so instructs, the Registry would be able to file by 3 June 2011 as many of the newly received applications which are complete as it is able to process*" and offers to "*await the Chamber's instructions as regards any transmission of incomplete applications which were received by the Registry before the deadline established by the Chamber and are completed at a later date by the receipt of supplementary information.*" The Registry is meant to serve as an impartial conduit for the communication of victims' applications and is not empowered to hint at a request for an extension of a court-ordained time limit.

Mandating the review of 783 victims' applications filed out of time in the few weeks that remain until the confirmation hearing will place a wholly unfair and prejudicial administrative burden on the Defence.

The learned Pre-Trial Chamber is thus requested to reaffirm its original order and to refuse to entertain any more than the 14 complete victims' applications.



Nicholas Kaufman

Counsel for Callixte Mbarushimana

Jerusalem, Israel
Sunday, May 22, 2011

¹ ICC-01/04-01/10-166.

² ICC-01/04-01/10-78 at page 3.