

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: 07/06/2011

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

**Second Defence request to convene a status conference for the purpose of
obtaining cooperation from the Democratic Republic of the Congo**

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. 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**

Mr. Xavier-Jean Keita

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

The Defence for Mr. Callixte Mbarushimana hereby reiterates its former request that the learned Single Judge convene a status conference for the purpose of seeking the formal cooperation of the Democratic Republic of the Congo.

1. On 17 May 2011, the learned Single Judge rejected the Defence request to convene a status conference, inviting the Democratic Republic of the Congo (DRC), once again, to reply to the Defence request for State cooperation pursuant to Article 57(3)(b) of the Rome Statute by 27 May 2011. In precise terms, the DRC was invited to supply "*tout document de l'époque ou de tout compte rendu de réunion avec le Bureau du Procureur en la possession des autorités de la RDC qui permettrait de mieux cerner la portée du renvoi de la situation en RDC à la Cour*".¹

2. On 27 May 2011, the DRC communicated its response to the Court supplying no less than the very same letter of referral - the scope of which the Defence is seeking to clarify.²

3. The Defence respectfully believes that the DRC has failed to comply with the true spirit of the Single Judge's invitation issued on 17 May 2011. Either the DRC possesses the specific documentation sought or it does not. If the DRC does not possess any records of meetings with the OTP or further documents clarifying the scope of the referral (beyond the letter of referral and its purposefully general phrasing) then it should be invited to say so. If the DRC does possess such additional documentation then it should be invited to present it at a status conference to be convened by the Single Judge.

4. This request is made without prejudice to any information forwarded, otherwise, to the Defence concerning such relevant information which the DRC may have in its possession.



Nicholas Kaufman
Counsel for Callixte Mbarushimana

Jerusalem, Israel

Tuesday, June 07, 2011

¹ ICC-01/04-01/10-157-Conf-Exp.

² ICC-02/04-01/10-204- Conf-Exp-Anx1.