



Original: **English**

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

Date: **12/06/2011**

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***

**Public Document
with Confidential Annex A
URGENT**

**Defence request for a deadline for the Registry to comply with
the Single Judge's decision: ICC-01/04-01/10-142**

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

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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

Prof. Dr. Esteban Peralta Losilla

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section Other**

Counsel for Mr. Callixte Mbarushimana hereby requests that the learned Single Judge order the Registry to comply with the *Decision on "the Defence Request for Review of the Scope of Legal Assistance"* ("the Decision")¹ within 7 days.

On 11 May 2011, the learned Single Judge ordered the Registry to make a retroactive award of legal assistance to Mr. Mbarushimana in order to cover the costs of his legal representation from the date of his arrest in Paris up until the date of his surrender to the Court.

The Single Judge rejected Counsel's request that the retroactive payment be made on "*present terms and conditions*" stating that "*legal assistance during the first phase of proceedings, from investigation to the first appearance before the Chamber, is payable at a lower rate than that applicable during the second phase of proceedings, from the initial appearance of the suspect to the first status conference before the Trial Chamber.*"² This conclusion of the Single Judge is, indeed, reflected in a publicly available document³ setting out the application of the Court's legal aid system.

To this day, the Registry has not only failed to implement the Decision but has also cited various extraneous factors as reasons for failing to provide Counsel with an estimate of the amounts owed.⁴

In the circumstances, therefore, the learned Single Judge is requested to order the Registry to comply with the Decision within 7 days.



Nicholas Kaufman
Counsel for Callixte Mbarushimana

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Sunday, June 12, 2011

¹ ICC-01/04-01/10-142.

² *ibid* at paragraph 12.

³ http://www.icc-cpi.int/iccdocs/asp_docs/library/asp/ICC-ASP-6-4_English..pdf at Annex IV where the proposed system (being the system currently adopted by the Registry) provides that the fees accruing to Counsel acting alone "*until the first status conference*" are fixed at **15,165** Euros per month with a rolling costs fund of **4,000** Euros per month.

⁴ Confidential Annex A; correspondence between Counsel and the Registry.