

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 26 July 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 Request for an extension of the time limit for the inspection and submission of its evidence for use at the confirmation hearing”

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 Request for an extension of the time limit for the inspection and submission of its evidence for use at the confirmation hearing” dated 24 July 2011 (“Defence’s Request”)², whereby the Defence

- (i) notes that, on 31 May 2011, the Pre-Trial Chamber ordered the Defence to permit the Prosecution to inspect its materials for use at the confirmation hearing by 28 July 2011 and to file its list of evidence by 1 August 2011³ (“the Two Time Limits”);
- (ii) notes the Single Judge’s “Decision on the ‘Defence request to exclude the Prosecution’s amended document containing the charges and amended list of evidence’” dated 22 July 2011⁴ (“the Single Judge’s Decision dated 22 July 2011”), ordering that both the “Addendum to the “Prosecution’s document containing the charges and List of Evidence submitted pursuant to Article 61(3) and Rule 121(3)”⁵ filed on 20 July 2011 (“Addendum”) and the “English version of Prosecution’s document containing the charges and List of Evidence submitted pursuant to Article 61(3) and Rule 121(3)”⁶ filed on 20 July 2011 (“English Version of the Addendum”) be struck out of the record;
- (iii) argues that the Defence had been prejudiced “in that the time available to it for the selection of materials to counter the contents of the Prosecution’s last version of the list of evidence has been shortened by 5 days”;

¹ICC-01/04-583.

² ICC-01/04-01/10-307.

³ ICC-01/04-01/10-207.

⁴ ICC-01/04-01/10-306.

⁵ ICC-01/04-01/10-298 with annexes.

⁶ ICC-01/04-01/10-300.

- (iv) requested that, “in order to mitigate such prejudice without any postponement of the date set for the confirmation hearing”, the Two Time Limits be extended by 5 days;

NOTING regulation 35 of the Regulations of the Court, enabling the Chamber to “extend or reduce a time limit if good cause is shown”;

CONSIDERING that both the Addendum and the English Version of the Addendum have been struck out from the record pursuant to the Single Judge’s Decision dated 22 July 2011;

CONSIDERING that the “Prosecution’s document containing the charges and List of Evidence submitted pursuant to Article 61(3) and Rule 121(3)” filed on 15 July 2011⁷ failed to comply with the requirements set forth in regulation 36 of the Regulations;

CONSIDERING that such failure was however remedied by the Prosecutor’s “Re-filing of the Prosecution’s Document Containing the Charges and List of Evidence submitted pursuant to Article 61(3) and Rule 121(3)”⁸ by way of shortening the version of the document containing the charges filed on 15 July 2011, pursuant to the order given in the Single Judge’s Decision dated 22 July 2011;

CONSIDERING that, as stated in the Single Judge’s Decision dated 22 July 2011, the Defence is not unduly prejudiced by the subsequent filing of a shortened version of the document containing the charges;

CONSIDERING further that the document filed on 15 July 2011 was notified to the Defence on the same day;

⁷ ICC-01/04-01/10-287 with confidential Annexes.

⁸ ICC-01/04-01/10-311 with confidential Annexes.

CONSIDERING that, accordingly, the Single Judge takes the view that no substantial prejudice has been caused to the Defence by the subsequent filings by the Prosecutor of various versions of the document containing the charges and that the inconvenience caused by the formal flaws affecting the document containing the charges filed on 15 July 2011 have been promptly addressed and remedied by the Single Judge;

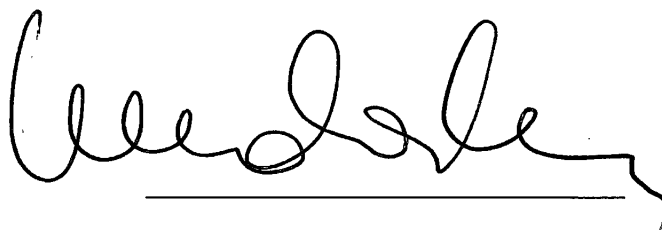
CONSIDERING that such inconvenience does not qualify as “good cause” within the meaning of Regulation 35 of the Regulations;

CONSIDERING that, in light of the above and the proximity of the date set for the confirmation hearing, and with a view to preserving the expeditiousness of the proceedings, it is not appropriate to delay the decision on the Defence’s Request until the Prosecutor has been given an opportunity to submit his views;

FOR THESE REASONS,

REJECT the Defence’s Request.

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 Tuesday, 26 July 2011

At The Hague, The Netherlands