



Original: **English**

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

Date: 11/08/2011

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng, Presiding Judge
Judge Sylvia Steiner
Judge Cuno Tarfusser

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
THE PROSECUTOR
v. CALLIXTE MBARUSHIMANA**

Public Document

Defence request for reclassification of ICC-01/04-01/10-353

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. Yael 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**

1. On 7 August 2011, Counsel for Mr. Callixte Mbarushimana filed the *"Defence request to deny the use of certain incriminating evidence at the confirmation hearing"* ("the Defence Request").¹
2. The Defence Request was filed as a public document.
3. On 11 August 2011, 4 minutes before the stipulated deadline, the Prosecution filed its response to the Defence Request ("the Prosecution Response").²
4. The Prosecution Response was filed, without justification, as a confidential, *ex parte*, Prosecution and Defence only document.
5. The Defence objects to the classification of the Prosecution Response fearing that it is designed to shroud the Prosecution's submissions in a cloak of secrecy.

Relief Sought

6. The learned Pre-Trial Chamber is requested to order the reclassification of the Prosecution Response as public.



Nicholas Kaufman

Counsel for Callixte Mbarushimana

The Hague, the Netherlands

Thursday, August 11, 2011

¹ ICC-01/04-01/10-343.

² ICC-01/04-01/10-353-Conf-Exp.