



Original: **English**

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

Date: **14/08/2011**

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono, 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
URGENT**

**Defence request for an extension of the time-limit
to submit observations on interim release**

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

Mr. Hervé Diakiese
 Mr. Mayombo Kassongo
 Mr. Ghislain Mabanga

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

Competent authorities of
 the French Republic and
 the Kingdom of the Netherlands

Amicus Curiae

REGISTRY

Registrar

Ms. Silvana Arbia

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section**

**Other
 Section**

1. On 12 August 2011, the learned Pre-Trial Chamber rendered its urgent "*Decision requesting observations on interim release*"¹ whereby the Defence was ordered to file any observations it may have by 26 August 2011 and the other participants at various dates thereafter.

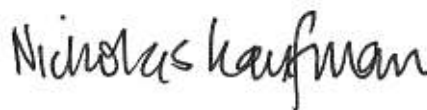
2. Rule 122(8) of the Rules of Procedure and Evidence stipulates that at a confirmation hearing, the Chamber shall permit "the Prosecutor and the person, in that order, to make final observations".

3. Rule 140(2)(d) of the Rules of Procedure and Evidence stipulates that at trial, "the Defence shall have the right to be the last to examine a witness".

4. Rule 141(2) of the Rules of Procedure and Evidence stipulates that for the purpose of closing submissions at trial "the Defence shall always have the opportunity to speak last".

5. The Defence submits that where it has not initiated a motion for relief and where legal proceedings are initiated by the Chamber *proprio motu* then, as a matter of justice, the Defence should always be afforded the right to submit last. This is all the more the case when the issue at hand concerns the liberty of the individual and the fact that the observations sought from State Parties may raise new issues.

6. In light of all the aforementioned, the Defence respectfully submits that good cause exists for extending the time limit for its observations until 10:00 on the next working day after the submission of the State Parties' observations on Friday 9 September 2011.



Nicholas Kaufman

Counsel for Callixte Mbarushimana

The Hague, The Netherlands
Sunday, August 14, 2011

¹ ICC-01/04-01/10-360.