

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 18 August 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

Decision on the Office of the Public Counsel for Victims' "Request to access documents in the case record in relation to the Defence Challenge to the Jurisdiction of the Court"

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, 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

Mr Hervé Diakiese

Mr Mayombo Kassongo

Mr Ghislain Mabanga

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**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**

Pre-Trial Chamber I of the International Criminal Court (“Chamber” and “Court” respectively);

NOTING the “Defence Challenge to the Jurisdiction of the Court” (“Defence Challenge”),¹ submitted on 19 July 2011;

NOTING the ‘Decision requesting observations on the “Defence Challenge to the Jurisdiction of the Court”’,² issued on 16 August 2011, wherein the Chamber *inter alia* (i) ordered the Registrar to inform the victims who have communicated with the Court with respect to the case against Mr Callixte Mbarushimana (“Mr Mbarushimana”) of the Defence Challenge; (ii) appointed the Office of the Public Counsel for Victims (“OPCV”) to represent unrepresented applicants, only for the purposes of article 19 proceedings; and (iii) invited the representatives of the victims who have already communicated with the Court with respect to the case, to submit observations on the Defence Challenge by 12 September 2011;

NOTING the OPCV “Request to access documents in the case record in relation to the Defence Challenge to the Jurisdiction of the Court” (“OPCV Request”)³ dated 18 August 2011, wherein the OPCV requests to be notified of:

- (i) annexes B and C to the Defence Challenge, currently classified as confidential;
- (ii) annexes 1 to 5 to the “Prosecution Response to the ‘Defence Request for Disclosure’”⁴, currently classified as confidential and mentioned in the “Prosecution’s response to the Defence Challenge to the Jurisdiction of the Court ICC-01/04-01/10-290”⁵;
- (iii) any other relevant documents in relation to article 19 proceedings;
- (iv) unredacted version of the Document Containing the Charges; and

¹ ICC-01/04-01/10-290.

² ICC-01/04-01/10-377.

³ ICC-01/04-01/10-380.

⁴ ICC-01/04-01/10-31.

⁵ ICC-01/04-01/10-290.

(v) systematically, any document submitted by the parties, participants and/or the Democratic Republic of the Congo related to the Defence Challenge and which might be classified confidential

NOTING articles 19(2), 19(3) of the Rome Statute ("Statute"), rules 58 and 59 of the Rules of Procedure and Evidence ("Rules");

CONSIDERING that the participation of "victims that have communicated with the Court" in accordance with article 19(3) of the Statute is regulated by rule 59 of the Rules and strictly limited to the following (i) to be informed of the challenge (Rule 59(1) of the Rules); (ii) to be provided, in a manner consistent with the duty of the Court regarding the confidentiality of information, the protection of any person and the preservation of evidence, *with a summary of the grounds* on which the jurisdiction of the Court has been challenged (Rule 59(2) of the Rules [Emphasis added]); and (iii) to make representation in writing to the competent Chamber within such time limit as it considers appropriate (Rule 59(3) of the Rules).

FOR THESE REASONS

GRANT the OPCV Request in relation to the requested notification of annexes B and C to the Defence Challenge only;

REJECT the OPCV Request in relation to all other requested notifications;

ORDER the Registrar to notify the OPCV and the legal representatives of victims of annexes B and C to the Defence Challenge, currently classified as "Confidential";

Done in English and French, the English version being authoritative.

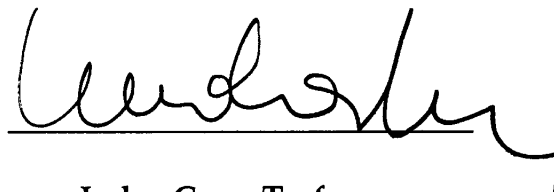
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Judge Sanji Mmasenono Monageng

Presiding Judge

A signature with a large, sweeping initial 'S' followed by a horizontal line.

Judge Sylvia Steiner

A signature with a large, sweeping initial 'C' followed by a horizontal line.

Judge Cuno Tarfusser

Dated this Thursday, 18 August 2011

At The Hague, The Netherlands