

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 23 August 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  
With one public annex**

**Registry report concerning the representation of participating victims formerly  
represented by Maître Herve Diakiese**

**Source: Registry**

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  
Mrs. Fatou Bensouda, Deputy Prosecutor

**Counsel for the Defence**

Mr. Nicholas Kaufman  
Ms. Yael Vias-Gvirsman

**Legal Representatives of Victims**

Mr. Mayombo Kassongo  
Mr. Ghislain Mabanga

**Legal Representatives of 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**

**Other**

Mr. Hervé Diakiese

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**REGISTRY**

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**Registrar**

Ms. Silvana Arbia

**Counsel Support Section**

Mr. Esteban Peralta Losilla

**Deputy Registrar**

Mr. Didier Preira

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Ms. Fiona McKay

**Other**

The Registrar of the International Criminal Court (the “Court”);

NOTING the Single Judge’s “Decision on the 138 applications for victims’ participation in the proceedings” issued on 11 August 2011 (the “Decision”);<sup>1</sup>

NOTING the “Report on the legal representation of the participating victims” filed by the Registry on 16 August 2011 (the “Report”);<sup>2</sup>

NOTING the « Enregistrement dans le dossier de la lettre du Bâtonnier National de la République Démocratique du Congo en date du 25 juillet 2011 et la décision du Greffier procédant à la radiation de Maître Herve Diakiese de la liste de conseils’ », submitted on 19 August 2011 (the “Registry filing”);<sup>3</sup>

NOTING rules 16(1)(b) and 90 of the Rules of Procedure and Evidence and regulations 24*bis*, 79 and 80 of the Regulations of the Court;

TRANSMITS respectfully to the Chamber the following report concerning the legal representation of participating victims, taking into consideration the Registry’s filing of 19 August 2011.

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<sup>1</sup> ICC-01/04-01/10-351.

<sup>2</sup> ICC-01/04-01/10-379.

<sup>3</sup> ICC-01/04-01/10-385-AnxI-II., notified on 22 August 2011.

1. On 11 August 2011, the Single Judge, in her Decision, accepted 130 victims as participants in pre-trial proceedings in the present case. Of these victims, 48 were represented by one of Mr Hervé Diakiese, Mr Mayombo Kassongo or Mr Ghislain Mabanga, while 82 remained unrepresented.<sup>4</sup>
  
2. Noting the short time before the confirmation hearing and the prevailing security situation in the Kivus, the Single Judge therefore deemed it appropriate that the 82 unrepresented victims be represented by one or more of the three legal representatives already representing other participating victims. She therefore ordered the Registry to appoint counsel for the 82 unrepresented victims from among the three acting legal representatives, and to transmit the victims' application forms to the relevant appointed legal representative(s) by Friday, 12 August 2011.<sup>5</sup>
  
3. In compliance with the Decision, the Registry informed the Chamber in its Report that the 82 unrepresented victims have been divided into three groups, based principally on their geographical locations and each of the three legal representatives was appointed to represent one of the three groups of unrepresented victims (in addition to those victims already represented by him) taking into account his ability to effectively represent victims in the particular geographical area involved, and the applications forms have been transmitted in their unredacted version to the legal representatives in respect of whom they have been allocated on 12 August 2011.<sup>6</sup>

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<sup>4</sup> ICC-01/04-01/10-351.

<sup>5</sup> *Ibid.*

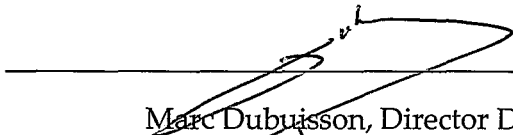
<sup>6</sup> ICC-01/04-01/10-379, paragraphs 2 and 3.

4. In particular, the Registry informed the Chamber that Mr. Hervé Diakiese represented 30 victims, including 4 who nominated him in their applications and a further 26 designated by the Registry.<sup>7</sup>
5. Considering the recent Decision of the Registrar withdrawing Me Hervé Diakiese from the list of Counsel before the Court, the Registry respectfully recommends that the 30 victims formerly represented by Me Diakiese be represented for the purposes of the Confirmation of Charges hearing by Me Mabanga. This recommendation is based principally on the geographical locations of the victims and takes into account the fact that Me Mabanga appears best placed to effectively represent these victims in the particular geographical area.
6. By way of overview the Registry notes that if such a recommendation were to be followed, the participating victims would be represented as follows:
  - (i) Mr. Ghislain Mabanga would represent 93 victims, including 31 who nominated him in their applications and a further 62 designated by the Registry;
  - (ii) Mr. Mayombo Kassongo would represent 37 victims, including 13 who nominated him in their applications and a further 24 designated by the Registry.

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<sup>7</sup> *Ibid*, paragraph 3.

7. Annex 1 to the present report comprises a table indicating the legal representation of the 130 victims accepted by the Single Judge to participate in the present case, should the Registry's recommendation be adopted.



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Marc Dubuisson, Director DCS  
*per* delegation of Silvana Arbia, Registrar

Dated this 23 August 2011

At The Hague, Netherlands