Cour Pénale Internationale

International Criminal Court

Original: **English**

No.**: ICC-01/04-01/12**
Date: **10 November 2026**

PRE-TRIAL CHAMBER I

Before: **Judge Iulia Antoanella Motoc, Presiding Judge**
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF

THE PROSECUTOR V. SYLVESTRE MUDACUMURA

PUBLIC

Public redacted version of "Prosecution's observations on "Registry report on the reported death of Sylvestre Mudacumura" and request to withdraw the Warrant of Arrest and terminate the proceedings", 3 July 2026, ICC-01/04-01/12-22-US-Exp

Source: **Office of the Prosecutor**

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☐ **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 M. Zavala Giler, Osvaldo	☐ **Counsel Support Section**
☐ **Victims and Witnesses Unit**	☐ **Detention Section**
☐ **Victims Participation and Reparations Section**	☐ **Other**

I. INTRODUCTION

1. The Prosecution submits these observations on the Registry's report on the reported death of Sylvestre Mudacumura[1] ("MUDACUMURA") ("Observations") and requests the Pre-Trial Chamber to withdraw the warrant of arrest against him and terminate the proceedings against him pursuant to article 58(4) of the Statute ("Request"). The Prosecution makes the Request in light of consistent information received from multiple sources indicating that MUDACUMURA is dead.

II. CONFIDENTIALITY

2. The Request is filed under seal, *ex parte*, only available to the Prosecution and Registry in line with the classification of the preceding filings regarding the death of MUDACUMURA. If and when the Chamber grants the Request, the Prosecution can file a public redacted version of this and related filings.

III. BACKGROUND

3. On 13 July 2012, Pre-Trial Chamber II issued a Warrant of Arrest for Sylvestre Mudacumura.[2]

4. On [REDACTED], the Registrar transmitted a request for the arrest and surrender of MUDACUMURA to DRC authorities.[3]

5. [REDACTED].[4]

6. [REDACTED],[5] [REDACTED].[6]

[1] ICC-01/04-01/12-21-US-Exp.
[2] ICC-01/04-01/12-1-Conf-Exp and public redacted version ICC-01/04-01/12-1-Red.
[3] [REDACTED].
[4] [REDACTED].
[5] [REDACTED].
[6] [REDACTED].

7. On 12 May 2026, the Registrar filed the "Registry report on the reported death of Sylvestre Mudacumura" ("Registry's Report"),[7] informing the Chamber of developments in relation to MUDACUMURA's reported death.[8]

8. On 10 June 2026, the Chamber issued the "Order to submit observations on the Registry report ICC-01/04-01/12-21-US-Exp",[9] directing the Prosecution to file its observations on the Registry's Report, including the information contained in paragraphs 20 and 21, by 3 July 2026.

IV. OBSERVATIONS ON THE REGISTRY'S REPORT

9. [REDACTED], the Prosecution obtained information and evidence regarding MUDACUMURA's death from DRC authorities and other sources. As set out below, all available sources, including sources with divergent interests, indicate that MUDACUMURA was killed in an operation by the *Forces Armées de la République démocratique du Congo* ("FARDC") against the *Forces Democratiques de Liberation du Rwanda* ("FDLR") (of which MUDACUMURA was a member) in September 2019, although there is inconsistent information about the circumstances in which he died.

A. All available sources indicate that MUDACUMURA was killed in an FARDC operation in September 2019

10. All available sources indicate that MUDACUMURA was killed in an operation launched by the FARDC in mid-September 2019. This includes contemporaneous reports in open sources attributed to the FARDC and the FDLR, information obtained from DRC authorities in response to cooperation requests, and [REDACTED].

[7] ICC-01/04-01/12-21-US-Exp.
[8] ICC-01/04-01/12-21-US-Exp, paras. 10 *ss*.
[9] The order was transmitted to the Prosecution by email.

a. The FARDC and FDLR stated publicly that MUDACUMURA was dead

11. In remarks to the media on 18 September 2019, FARDC Spokesperson General Richard KASONGA stated that the FARDC had located, identified and neutralised MUDACUMURA.[10] In a press release circulated on social media the same day the FARDC stated it had conducted a surprise operation on the night of 16-17 September south of Rwindi, in *groupement* Katsiru, *chefferie* Bwito, Rutshuru territory, North Kivu.[11] Later the same day an FARDC Twitter account publicly confirmed that the FARDC had killed MUDACUMURA.[12]

12. In a press release published in the Rwandan press on 27 September 2019,[13] FDLR President Victor BYINGIRO confirmed that MUDACUMURA had been killed in an attack by the RDF together with the FARDC on 18 September 2019.[14] A video published on open sources on 17 November 2019 shows MUDACUMURA's wife leading a religious commemoration service of MUDACUMURA's life in which she references his death.[15] Finally, in a video posted online by Radio Ikondera Libre, FDLR Spokesperson Cure NGOMA refers to MUDACUMURA's killing on 18 September, in a joint military attack by the Congolese and Rwandan armies which advanced from Nyanzale.[16] NGOMA stated that MUDACUMURA had already been buried by the FDLR.[17]

[10] DRC-OTP-00008681, DRC-OTP-00008683.
[11] DRC-OTP-00008666, reposted by account @ChristinaMalkia on 18 September 2019 at 12:02 (see DRC-OTP-00008665) and quoted by *L'Interview.cd* (DRC-OTP-00008679).
[12] DRC-OTP-00008669, reposted by account @ChroniclesRW on 18 September 2019 at 12:14. See DRC-OTP-00008668.
[13] As a group subject to sanctions, the FDLR did not and does not have its own webpage.
[14] DRC-OTP-00008677 and translation DRC-OTP-00008686.
[15] DRC-OTP-00002971 and transcription DRC-OTP-00003645 at p. 3 and translation DRC-OTP-00003646 at p. 3: "*…il devait en fait mourir pour que nous puissons le célébrer…*" [REDACTED].
[16] DRC-OTP-00008676, lines 00:08:34 to 00:09:23. See transcription DRC-OTP-00008685, lines 11-17, 24-29; and translation DRC-OTP-00008687, lines 12-18, 25-31.
[17] DRC-OTP-00008676, lines 00:09:50 to 00:10:24. See transcription DRC-OTP-00008685, lines 52-70, 111-116; and translation DRC-OTP-00008687, lines 53-72, 113-118.

b. The FARDC's investigation confirmed MUDACUMURA's death

13. [REDACTED], the Prosecution sought the DRC authorities' cooperation with the verification of MUDACUMURA's death. [REDACTED]. These requests sought forensic verification of MUDACUMURA's death; information from persons present at the moment of his death or possessing relevant information, including those who took part in or were arrested during the mid-September 2019 military operation; and the transmission of all related records.

14. DRC authorities conducted an investigation which they asserted confirmed MUDACUMURA's death and provided the Prosecution with a copy of their investigation file.[18] The authorities informed the Prosecution that they had been unable to obtain forensic proof of death because MUDACUMURA's body had been taken by the FDLR shortly after he was killed, as developed below.

15. The DRC's investigation file includes [REDACTED].[19] [REDACTED].[20] [REDACTED].[21] [REDACTED].

16. The DRC's investigation file contains [REDACTED].[22] [REDACTED].[23]

c. [REDACTED]

17. A further source confirming MUDACUMURA's death [REDACTED].[24] [REDACTED].

[18] DRC-OTP-2109-5752, DRC-OTP-2109-5753, DRC-OTP-2109-5759, DRC-OTP-2109-5762, DRC-OTP-2109-5768, DRC-OTP-2109-5770, DRC-OTP-2109-5773, DRC-OTP-2109-5777, DRC-OTP-2109-5780, DRC-OTP-2109-5781.
[19] DRC-OTP-2109-5770 at 5771.
[20] DRC-OTP-2109-5770 at 5771.
[21] DRC-OTP-2109-5770 at 5772.
[22] DRC-OTP-2109-5762 at 5764-5765 and 5767.
[23] DRC-OTP-2109-5762 at 5764.
[24] REDACTED.

d. [REDACTED]

18. [REDACTED].[25] [REDACTED].

B. There is inconsistent information about the circumstances of MUDACUMURA's death

19. The information and evidence available is partially inconsistent about the circumstances in which MUDACUMURA died. There is a minor divergence in the reported date of the killing, namely whether it occurred on the night of 16-17 September[26] or on 18 September 2019.[27]

20. The sources also diverge as to the participants in the attack on the FDLR. The video from Radio Ikondera Libre containing an interview with the FDLR Spokesperson Cure NGOMA described the attack as a joint venture by the Congolese and Rwandan armies,[28] as do [REDACTED]. [REDACTED]. This information differs from [REDACTED].

21. [REDACTED].[29] [REDACTED],[30] [REDACTED].

22. [REDACTED].

C. No information has come to light suggesting MUDACUMURA is alive

[25] [REDACTED].
[26] FARDC press release circulated on social media, see DRC-OTP-00008666 and DRC-OTP-00008679.
[27] FARDC Tweet DRC-OTP-00008669; [REDACTED]; FDLR press release, DRC-OTP-00008677 and translation DRC-OTP-00008686 at p. 2; and [REDACTED].
[28] See above, para. 12.
[29] [REDACTED].
[30] [REDACTED].

23. Since the first reports of MUDACUMURA's death in September 2019, the Prosecution has not received any information in the nearly seven years that have elapsed since to suggest that MUDACUMURA is still alive.

D. Prospects of obtaining further information

24. The DRC and Rwanda have been engaged in an armed conflict on DRC territory for a number of years, particularly in North Kivu Province, where the operation against MUDACUMURA took place and in areas that with historic FDLR presence, where it is possible MUDACUMURA may have been buried. The ongoing conflict makes it unlikely that forensic proof of MUDACUMURA's death can be obtained.

25. [REDACTED][31] [REDACTED].[32] [REDACTED], making it highly unlikely that [REDACTED] will assist further in clarifying the circumstances of MUDACUMURA's death.

26. There are very few remaining investigative avenues available for clarifying the circumstances surrounding MUDACUMURA's death. These have been assessed by the Prosecution as being incapable of providing the necessary clarifications directly. In the course of its ongoing investigation in the DRC Situation, the Prosecution will stay alert to possibilities to obtain more direct information on the circumstances of MUDACUMURA's death. Should the Prosecution obtain relevant evidence, the Prosecution will notify the Chamber promptly.

V. REQUEST TO WITHDRAW THE WARRANT OF ARREST AND TERMINATE THE PROCEEDINGS

[31] ICC-01/23-1-AnxI, p. 2.
[32] [REDACTED].

27. The Prosecution submits that all available information and evidence points to MUDACUMURA no longer being alive. This includes information originating from parties with divergent interests, including the DRC authorities, FARDC, and the FDLR. While there are some divergences in the accounts relating to the circumstances in which MUDACUMURA died, the Prosecution submits that there is sufficient and reliable information establishing that MUDACUMURA is dead and that there is therefore no longer a basis to maintain the arrest warrant and the proceedings against him.[33]

VI. RELIEF SOUGHT

28. For the above reasons, the Prosecution requests that the Chamber withdraw the arrest warrant against MUDACUMURA and terminate the proceedings against him.



Mame Mandiaye Niang, Acting Prosecutor

Dated this 10th of November 2026
At The Hague, The Netherlands

[33] *See e.g.* ICC-01/18-417, paras. 5, 7; ICC-02/05-03/09-512-Red, para. 25.