

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/04-01/10  
Date: 11 October 2010

**PRE-TRIAL CHAMBER I**

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

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

***CASE THE PROSECUTOR V. CALLIXTE MBARUSHIMANA***

**Public Document**

**Decision on issues relating to the publicity of proceedings in the case**

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

Ms Fatou Bensouda

**Counsel for the Defence**

Mr Nick Kaufman

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Deputy Registrar**

Mr Didier Preira

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

**PRE-TRIAL CHAMBER I** of the International Criminal Court (the “Chamber” and the “Court”, respectively);

1. **NOTING** the “Prosecution’s Application under Article 58” dated 20 August 2010 (“Application”)<sup>1</sup>, whereby the Prosecutor requested the Chamber to issue a warrant of arrest for Callixte Mbarushimana for war crimes and crimes against humanity committed in the North and South Kivu Provinces of the DRC between January 2009 and the date of the Application;

2. **NOTING** the “Decision requesting clarification on the Prosecutor’s Application under Article 58”, dated 6 September 2010,<sup>2</sup> following which the Prosecutor, on 10 September 2010, filed the “Prosecution’s Submissions on Jurisdiction”<sup>3</sup>;

3. **NOTING** the “Decision on the Prosecutor’s Application for a Warrant of Arrest against Callixte Mbarushimana” dated 28 September 2010<sup>4</sup>, whereby the Chamber decided to issue a warrant of arrest for Callixte Mbarushimana, finding that there were reasonable grounds to believe that he is criminally responsible under article 25(3)(d) of the Rome Statute for a number of war crimes and crimes against humanity allegedly committed in the in North and South Kivu Provinces of the DRC, and the warrant of arrest issued on the same day (“Warrant”)<sup>5</sup>;

4. **NOTING** that all of the filings in the record of the case of The Prosecutor v. Callixte Mbarushimana (“Case”) are currently classified as “under seal”;

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<sup>1</sup> ICC-01/04-573-US-Exp.

<sup>2</sup> ICC-01/04-575-US.

<sup>3</sup> ICC-01/04-577-US.

<sup>4</sup> ICC-01/04-01/10-1-US.

<sup>5</sup> « Mandat d’arrêt à l’encontre de Callixte Mbarushimana », ICC-01/04-01/10-2-US+US Anx.

5. **NOTING** that, in particular, both the Decision and the Warrant were issued under seal with a view to ensuring the effective execution of the arrest of Callixte Mbarushimana;

6. **NOTING** that, according to information received orally from both the Registrar and the Office of the Prosecutor, Callixte Mbarushimana was arrested by the French authorities on this 11 October 2010 and is currently in custody of the French authorities;

7. **NOTING** article 67(1) of the Statute, enshrining the fundamental principle of the publicity of proceedings before the Court;

8. **CONSIDERING** that, in light of the successful arrest of Callixte Mbarushimana, the reasons warranting the issuance of both the Decision and the Warrant as “under seal” no longer exist;

9. **CONSIDERING** that, accordingly, it is appropriate that both the Decision and the Warrant be reclassified as “public”;

10. **CONSIDERING** that it is equally appropriate that the decision whereby the Chamber requested clarifications on the Prosecutor’s Application be reclassified as public;

11. **CONSIDERING** furthermore that it is also appropriate that the Prosecutor file a public version of his Application as well as of his Submissions on Jurisdiction, redacted as appropriate, if need be;

**FOR THESE REASONS,**

**DECIDES**

That the following decisions issued by the Chamber be reclassified as public:

- (i) the "Decision requesting clarification on the Prosecutor's Application under Article 58" (ICC-01/04-575-US);
- (ii) the "Decision on the Prosecutor's Application for a Warrant of Arrest against Callixte Mbarushimana" (ICC-01/04-01/10-1-US);
- (iii) the "Mandat d'arrêt à l'encontre de Callixte Mbarushimana" (ICC-01/04-01/10-2-US+US Anx);

### ORDERS

the Prosecutor to file a public version of the "Prosecution's Application under Article 58" (ICC-01/04-573-US-Exp) and of the "Prosecution's Submissions on Jurisdiction" (ICC-01/04-575-US), redacted as appropriate, no later than Wednesday 13 October 2010.

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

Dated this 11 October 2010

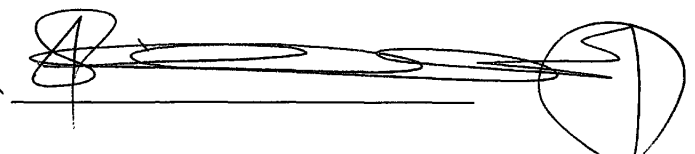
At The Hague, The Netherlands



Judge Cuno Tarfusser  
Presiding Judge



Judge Sylvia Steiner



Judge Sanji Mmasenono Monageng